

Also, a bill (H. R. 9670) granting an increase of pension to Isabel A. Whitis; to the Committee on Invalid Pensions.

By Mr. STALKER: A bill (H. R. 9671) granting a pension to Michael H. Daly; to the Committee on Pensions.

Also, a bill (H. R. 9672) granting a pension to Hiram H. Brown; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9673) granting an increase of pension to Anna B. Hurd; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9674) granting an increase of pension to Mary W. Porter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9675) granting an increase of pension to Sarah A. Borden; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9676) granting an increase of pension to Margaret M. Teachman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9677) granting an increase of pension to Julia Gunderman; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9678) granting an increase of pension to Ruth C. Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9679) granting an increase of pension to Amelia Bradley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9680) granting an increase of pension to Louise Snow; to the Committee on Invalid Pensions.

Also, a bill (H. R. 9681) granting an increase of pension to Jane H. Trim; to the Committee on Invalid Pensions.

By Mr. UPSHAW: A bill (H. R. 9682) for the relief of Henry J. Wright; to the Committee on Claims.

By Mr. WEAVER: A bill (H. R. 9683) granting a pension to William B. Roberts; to the Committee on Pensions.

Also, a bill (H. R. 9684) granting a pension to Nancy E. Garrett; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

769. By Mr. ARNOLD: Petition of various citizens of Clinton County, Ill., protesting against the establishment of a department of education in the Federal Government; to the Committee on Education.

770. By Mr. BLOOM: Petition of the Merchants Protective Association of New York, concerning the congested condition of the Federal courts in its jurisdiction; to the Committee on the Judiciary.

771. Also, petition of the Building Trades Council of New York City, indorsing the restoration of light wines and beers; to the Committee on the Judiciary.

772. By Mr. CAREW: Petition of the Brooklyn Bar Association of New York, favoring the passage of Federal judges increase salary bill; to the Committee on the Judiciary.

773. By Mr. FULLER: Petition of the Morris Illinois Chamber of Commerce for a new post-office building at Morris; to the Committee on Public Buildings and Grounds.

774. Also, petition of the Rotary Club of Morris, Grundy County, Ill., for a new post-office building; to the Committee on Public Buildings and Grounds.

775. By Mr. GALLIVAN: Petition of William Hetherington, adjutant, Major P. J. Grady Camp, No. 3, Department of Massachusetts, United Spanish War Veterans, 202 Havre Street, East Boston, Mass., recommending early and favorable consideration of legislation to increase the pensions of veterans of the Spanish-American War; to the Committee on Pensions.

776. Also, petition of Hugh O. Neville, chairman legislative committee, Department of Colorado and Wyoming, United Spanish War Veterans, 916 South Eighth Street, Laramie, Wyo., recommending early and favorable consideration of legislation to increase the pensions of veterans of the Spanish-American War; to the Committee on Pensions.

777. By Mr. LINTHICUM: Petition of James Steele, Chesapeake Council, Baltimore, favoring passage of H. R. 4497, removal of surcharges for transportation in parlor and sleeping cars; to the Committee on Interstate and Foreign Commerce.

778. Also, petition of David Paulson, secretary Independent Order Brith Sholom, Baltimore, protesting against passage of the Wadsworth-Perlman bill; to the Committee on Immigration and Naturalization.

779. Also, petition of the J. W. Crook Stores Co., of Baltimore, protesting against H. R. 9168; to the Committee on Interstate and Foreign Commerce.

780. Also, petition of Brown, Brune, Parker & Carey, attorneys, Baltimore; George Forbes, attorney, Baltimore; Peelle & Ogilby, attorneys, Washington, D. C.; Edward F. Johnson, attorney, Baltimore; Sykes, Nyburg, Goldman & Walter, attorneys, Baltimore; A. B. Makover, attorney, Baltimore; Keech, Deming & Carman, attorneys, Baltimore; George P. Bagby, vice president Western Maryland Railway Co., Baltimore; Jesse Fine, attorney, Baltimore; Hinkley, Hisky & Burger, attorneys,

Baltimore; Niles, Wolff, Barton & Morrow, Baltimore; Emory, Beenwkes & Skeen, Baltimore; favoring Graham bill (H. R. 7907) increasing judgeship salaries; to the Committee on the Judiciary.

781. By Mr. MEAD: Petition of the Erie County Committee, American Legion, in regard to officers' pay; to the Committee on Military Affairs.

782. Also, petition of Richard L. Ball, Buffalo, N. Y., favoring increase of salaries for Federal judges; to the Committee on the Judiciary.

783. By Mr. MOONEY: Petition of the Council of the Village of Newburgh Heights, indorsing amendment to the Federal prohibition act to permit the manufacture and sale of light wines and beers; to the Committee on the Judiciary.

784. Also, petition of the City Council of Cleveland, Ohio, indorsing amendment to the Volstead Act to permit the manufacture and sale of light wines and beers; to the Committee on the Judiciary.

785. By Mr. O'CONNELL of New York: Petition of the Sergeant Hamilton Fish Camp, No. 46, United Spanish War Veterans, favoring the passage of H. R. 98, for the benefit of the veterans of the war with Spain; to the Committee on Pensions.

786. Also, petition of the Custodian Employees of Chicago, Ill., favoring the passage of H. R. 5966; to the Committee on the Civil Service.

787. Also, petition of the Willys-Overland Co., of Toledo, Ohio, favoring the passage of the Porter bill, for the purchase and construction of buildings to properly house our Government officials abroad; to the Committee on Foreign Affairs.

788. Also, petition of the Spokane Chamber of Commerce, Spokane, Wash., favoring the passage of the Gooding-Hoch long and short haul bill; to the Committee on Interstate and Foreign Commerce.

789. Also, petition of the Associated Federal Board students, University of Arizona, favoring the passage of House bill 4474; to the Committee on World War Veterans' Legislation.

790. Also, resolution of the New York City Federation of Women's Clubs, urging a Federal investigation of the American Telephone & Telegraph Co.; to the Committee on Rules.

791. Also, resolution of the Hebrew Free Loan Association, of Providence, R. I., favoring a more liberal immigration law; to the Committee on Immigration and Naturalization.

SENATE

TUESDAY, February 23, 1926

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, revealed to us especially in Jesus Christ Thy Son, we come this morning rejoicing in the sunlight and realizing for ourselves that goodness and mercy have been our portion thus far along the journey. We pray for Thy guidance this day. Grant to each one in this important body such a sense of wisdom from on high that in all their deliberations they shall exercise that wisdom for the highest interests of our country. Hear our prayer for all who need special help in the midst of life's burdens and duties and may they see light in Thy light. We humbly ask in Christ's name. Amen.

The Chief Clerk proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ADDRESS BY PRESIDENT COOLIDGE (S. DOC. NO. 68)

Mr. FESS. Mr. President, there are 15,000 teachers of the United States assembled here in Washington at the Fifty-sixth Annual Convention of the Department of Superintendence of the National Education Association. Last night before an audience of 6,000, that being the capacity of the Auditorium, the President delivered a notable address. I ask that the address be printed in the RECORD at this point, and also as a Senate document.

The VICE PRESIDENT. Without objection, it is so ordered. The President's address is as follows:

ADDRESS OF PRESIDENT COOLIDGE BEFORE THE DEPARTMENT OF SUPERINTENDENCE OF THE NATIONAL EDUCATION ASSOCIATION, AT 8.15 O'CLOCK P. M., FEBRUARY 22, 1926, AT WASHINGTON, D. C.

LADIES AND GENTLEMEN: It is doubtful if anyone outside of certain great religious teachers ever so thoroughly impressed himself on the heart of humanity as has George Washington. No figure in America has been the subject of more memorial tributes and more unstinted praise. And yet the subject never seems to be exhausted and the public interest never seems to be decreased. The larger our experience with

affairs of the world, the more familiar we become with his life and teachings, the more our admiration enlarges, and the greater grows our estimation of his wisdom. He represented the marvelous combination of the soldier, the patriot, and the statesman. In the character of each he stands supreme.

As a brave soldier he won the Revolutionary War. As an unselfish patriot he refused to use the results of that victory for his own benefit, but bestowed them all on his fellow countrymen. As a wise statesman, gathering around him the best talent of his time, he created the American Republic. All the increasing years only reveal to us how universally great he was. If to set a mark upon the minds of men which changes the whole course of human events is teaching, then Washington ranks as a prince of teachers.

The world is not the same as that into which he was born on that February day in 1732. It is a better world. The stately march of civilization, which has since advanced so far, has proceeded in a course which he marked out. The imposing edifice of human progress, which has since been raised so high, rests to a large extent upon the foundations which he wrought. To those who wish more civilization and more progress there must be a continuing determination to hold to that course and to maintain those foundations. If any doubt what benefit these have been, they have but to compare the present state of America especially, or even of the rest of the world, with what it was when Washington was born.

History seems to indicate that he led and directed a transformation that was growing with an increasing strength over western civilization. The fires of the Middle Ages had burned out. The reaction from the days of Cromwell had run its course in England. The glory of the old régime in France was declining. The power of Spain was shifting to other hands. But while the old was passing the new had not yet begun. Materially and spiritually things were at a low ebb in the Old World. It has been described as a time "when poetry sank into dull prose; when philosophy rarely soared above the material or the purely logical; when the only earnestness existing took the direction of greed or self-indulgence; when the public service was corrupt; when public morals were licentious; and when common language was profane."

The finances of the people were in a disordered condition. It was distinctly a transition period in America. The early settlers who had come from the old country had passed away. A very large proportion of the inhabitants of the Colonies, estimated by some as nearly 90 per cent, were native born. The pioneer crusading fervor was gone. The new awakening had not come. The attachment to those institutions that are represented by an order of nobility was breaking down. Both in the Old World and in the New the ancient aristocracy was crumbling, but the modern democracy had not yet arisen. An era was approaching which was to give less and less attention to kings and more and more attention to the people. In that era Washington was to be the heroic figure.

No doubt the most powerful influence which was working to establish the new order was the revival of religion. This movement had been started in England by John Wesley and George Whitefield in 1729. It was distinctly an effort to reach the common people. They went down among those who were not otherwise reached, preaching the gospel. In America Jonathan Edwards led two revival movements, culminating in 1742. Whitefield came to this country and preached to great congregations during this period, and the followers of Wesley sent Bishop Asbury here in 1771. These religious activities were distinctly popular movements. They rested on the theory that every human soul was precious. They resulted in a leveling process, but it was not a leveling down; it was a leveling up. They raised every person that came under their influence to a higher conception of life. A new recognition of spiritual worth gave to all humanity an increased importance.

Another very predominating influence, supplementing religion and flowing from it, was education. This movement was not new in the Colonies, but it increased in volume after 1732. It has been claimed that the Reformed Dutch Church of New York founded an academy in 1633 and that the Boston Latin School was established in 1635. In the same year Boston took action in a town meeting to support a school, and in Connecticut and Rhode Island schools were opened within a few years. In Philadelphia, New Jersey, Maryland, Virginia, and South Carolina and other Colonies early action was taken to provide schools, but the effort was not followed up so assiduously as it was in New England, where the clergy were very active in its promotion. This influence was seen in the first compulsory school law in America, which was passed in Massachusetts in 1647.

"* * * it being one chief project of the old deluder Satan to keep men from the knowledge of the Scriptures," the preamble recited, the general court ordered that each township "after the Lord hath increased them to the number of 50 householders, shall then forthwith appoint one within every town to teach all such children to write and read."

Towns of 100 families were required to have a grammar school and a teacher able to prepare youths for the university. Penalties were fixed for the violation of this law.

In 1732 there were already three colleges in America—Harvard, William and Mary, and Yale—with a combined attendance which is estimated at about 275 students.

The intellectual awakening that went on between that time and the opening of the Revolutionary War could not be more plainly revealed than by the establishment during that period of only a little over 40 years of no less than 10 additional colleges. Then were laid the beginnings of such great institutions as Pennsylvania, Princeton, Columbia, Brown, and Dartmouth. When it is remembered that a knowledge of the truth has always been the maker of freedom, this remarkable quickening of the religious and intellectual life of the Colonies in these years just prior to the Declaration of Independence becomes of enormous significance. Rightly considered, it would have been an ominous warning to the British Government that America had long since begun to think for itself and unless justly treated would soon begin to act for itself.

While this intellectual and spiritual awakening was taking place during the youth and maturing years of Washington, he benefited by it not so much from taking part in it as in later directing the results of it. Although he lived in one of the most populous and perhaps richest of the Colonies, popular education around him was still undeveloped. Newspapers were almost unknown in the New World and permanent and regular lines of transportation did not exist. About the only regular visitors to his Colony were foreign tobacco traders, dealers in fur, and peddlers. The clergy were almost the only professional class. The people were very largely engaged in agriculture.

At the early age of 3, however, Washington was placed under the instruction of a tutor, who seems to have confined his teaching to the most rudimentary subjects. When he was 11 another man took charge of his education and began to instruct him in the fundamentals of the forms of business. Some of his copy books of that day are still in existence. There is evidence that he was taught some Latin, but his preliminary education was virtually completed when he was 13 years old. Paul Leicester Ford says that—

"The end of Washington's school days left him a good cipherer, a bad speller, and a still worse grammarian; but fortunately the termination of instruction did not by any means end his education."

After this he studied surveying and pursued that occupation for several years. This was an exacting calling, training him in accuracy. But when he was 15 he came into close contact with Lord Fairfax, a cultured gentleman of 60 years, who had a considerable library. His diaries of that period show him reading English history and essays in the Spectator. But these early opportunities constituted only the beginning of his education, which he continued in one form or another almost to the end of his days. His experience, his power of observation and absorption finally overcame this lack of early training, so that in his later days his writings, correct in form and taste, adequately revealed the great strength of character which he had developed.

Perhaps because of his own early experience he was the more solicitous for the members of his family. To one who was charged with the care of John Washington he wrote as follows:

"In respect to the kinds and manner of his study, I leave it wholly to your better judgment. Had he begun, or rather pursued, his study of the Greek language, I should have thought it no bad acquisition; but whether if he acquire this now, he may not forego some useful branches of learning, is a matter worthy of consideration. To be acquainted with the French tongue is become part of polite education; and to a man who has the prospect of mixing in a large circle absolutely necessary. Without arithmetic, the common affairs of life are not to be managed with success. The study of geometry and mathematics (with due regard to the limits of it) is equally advantageous. The principles of philosophy, morals, etc., I should think a very desirable knowledge for a gentleman."

His practical interest in education in his later life was further manifest by his accepting the position of a chancellor of William and Mary College in 1788.

In religion he conformed to the practice of his time. It is related that he was baptized when 2 months old and probably attended church regularly until he was 16. From that time until 1759 he was largely engaged in expeditions. After his marriage and settlement at Mount Vernon he was made vestryman in two parishes, for one of which he was instrumental in erecting a building. While he was not a constant church attendant, he was a constant contributor and always gave respectful consideration to the religious beliefs of others. He was tolerant in all things.

The mature opinion of Washington upon the importance of the intellectual, moral, and religious forces of the Nation is not only revealed by his actions but is clearly set forth in his statements. He looked upon these attributes as the foundation which supported the institutions of our Republic. This opinion was most forcibly expressed in his farewell address, where he said:

"Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to

subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity. Let it simply be asked, Where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths, which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion.

"Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle. 'Tis substantially true that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it can look with indifference upon attempts to shake the foundation of the fabric?"

The policies of Washington always had a national outlook. He warned his country against sectionalism. He promoted internal improvements calculated to bring together different parts of the Nation. When he came to the consideration of the problem of training the youth of the country he was not only in favor of education for its own sake, but sought to make it contribute to the national spirit. Believing thoroughly in American ideals and in the American Union, it early occurred to him that a national university would be beneficial both by the power it would have to present the principles on which the Republic was founded and the power it would have to resist provincialism by creating a forum for the exchange of ideals through a student body drawn from all quarters of the Nation. It is said that he expressed this thought soon after he took command of the Continental Army at Cambridge. He referred to it in a general discussion of the subject of education in one of his early messages to the Congress, in which he said:

"Nor am I less persuaded that you will agree with me in the opinion that there is nothing which can better deserve your patronage than the promotion of science and literature. Knowledge is, in every country, the surest basis of happiness. In one in which the measures of government receive their impressions so immediately from the sense of the community as in ours it is proportionably essential. To the security of a free constitution it contributes in various ways—by convincing those who are interested with the public administration that every valuable end of government is best answered by the enlightened confidence of the people and by teaching the people themselves to know and to value their own rights; to discern and provide against invasions of them; to distinguish between oppression and the necessary exercise of lawful authority, between brethren, proceeding from a disregard to their convenience, and those resulting from the inevitable exigencies of society; to discriminate the spirit of liberty from that of licentiousness, cherishing the first and avoiding the last; and uniting a speedy but temperate vigilance against encroachments with an inviolable respect for the laws.

"Whether this desirable object will be best promoted by affording aids to seminaries of learning already established, by the institution of a national university, or by any other expedients, will be worthy of a place in the deliberations of the legislature."

And in his farewell address he again uttered this same thought as follows:

"Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened."

He urged it more strongly in a letter to the Commissioners of the District of Columbia in 1795, and finally he declared in his will—

"That as it has always been a source of serious regret with me to see the youth of these United States sent to foreign countries for the purpose of education, often before their minds were formed or they had imbibed any adequate ideas of the happiness of their own, contracting too frequently not only habits of dissipation and extravagance, but principles unfriendly to republican government and to the true and genuine liberties of mankind, which thereafter are rarely overcome. For these reasons it has been my ardent wish to see a plan devised on a liberal scale which would have a tendency to spread systematic ideas through all parts of this rising Empire, thereby to do away with local attachments and State prejudices as far as the nature of things would or indeed ought to admit from our national councils.

"Looking anxiously forward to the accomplishment of so desirable an object as this is (in my estimation), my mind has not been able to contemplate any plan more likely to effect the measure than the establishment of a university in a central part of the United States to which the youth of fortune and talents from all parts thereof might be sent for the completion of their education in all the branches of polite literature in arts and sciences—in acquiring knowledge in the principles of politics and good government—and (as a matter of infinite importance in my judgment) by associating with each other and forming friendships in juvenile years, be enabled to free them-

selves in a proper degree from those local prejudices and habitual jealousies which have just been mentioned and which when carried to excess are never failing sources of disquietude to the public mind and pregnant of mischievous consequences to this country."

And he, therefore, made a bequest to the National Government on condition that it cooperate in carrying out his wish for a national university.

His desire for the increase of knowledge was further elaborated and reiterated in his will. In that instrument he even provided for educating the slave children which he set free. He made bequests to two academies besides that for the founding of a national university. Although the Congress failed to cooperate, so that this wish was never carried into effect as he had contemplated it, yet the city of Washington has been made the seat of no less than 10 colleges and universities, and the larger institutions all over our country are more national than local in their precepts and teaching.

While there has been agitation lasting almost up to the present day for a national university, if the idea ever prevails it will probably not be an institution devoted to the regular collegiate courses, but one for postgraduate and original research work, for which there are such abundant sources and opportunities already located in the Capital City. The Federal Government, however, has not been remiss in the support of advanced learning and of vocational training, for which it has appropriated more than \$90,000,000 in the last 35 years, while for general educational purposes it has donated about 95,000,000 acres of the public lands.

The country at large has not failed to follow the precepts of Washington. From the three institutions of higher learning in existence at the time of his birth the number has grown to 913, with a total enrollment of over 664,000 students and over 56,000 teachers, an endowment of nearly \$815,000,000, and a property value of over \$1,000,000,000. Our elementary and secondary schools have expanded until they provide for more than 26,000,000 pupils and require over 822,000 teachers. In 1912 the total amount expended yearly for all educational purposes was about \$706,000,000. This has been increasing with great rapidity, until in 1924 it reached \$2,400,000,000. The source of this enormous expenditure, so far as public money is concerned, is almost entirely from the local and State governments.

This represents the result which has been secured by the carrying out of some of the most important policies of our first President. It should be noted that these are the policies of peace. They are based on a desire for intellectual and moral enlightenment. They are the only means by which misunderstandings, suspicions, hatreds, and wars can finally be eradicated from the earth. They are the foundation of order, of law, and of an advancing civilization. It is these elements of domestic tranquillity and foreign harmony that Washington helped to build into the structure of our institutions. There is no other structure on which they can rest.

Envy, malice, uncharitableness, class jealousies, race prejudices, and international enmities are not realities. They do not abide. They are only the fictions of unenlightened comprehension. Those who preach them are not safe advisers and not sound leaders. Nothing but discord and disaster at home and abroad can result from following these policies. Washington was the antithesis of all this. His writings and teachings breathe a higher, broader purpose, a more inspired leadership. No man clung more tenaciously to what he believed was right, or was prepared to make greater sacrifices in its support. But he viewed the right as a universal principle, to be applied not only to himself but to others, not only to his own State, but to the Nation; not only to his own countrymen, but to foreigners. There was nothing about him of the small American.

He believed our own political institutions were superior to those of other countries, but he never preached hatred of all things foreign and he made large concessions in the negotiation of treaties for the settlement of disputed questions which were for the advantage of foreign nations. He believed that obligations were mutual; that what we expected to receive we should be ready to give, both in the field of citizenship and in the larger domain of international relations. He clung to the realities. That was his greatness.

Washington has been known as one of the most practical of leaders. He was not emotional. He was possessed of that broad comprehension of a situation which made his judgment eminently sound. With the possible exception of the field of Monmouth, when disobedience to his orders amounting almost to treachery was losing the day, history always reveals him as calm, cool, and collected. He always knew what he was doing. He was not a sentimentalist. But he was a man capable of deep and abiding affection and of exalted and inspiring ideals. He loved his country with an abounding devotion. He lavished upon it a wealth of genius.

We are wont to think of him as a military commander and a civil administrator—as a man of public affairs. He was surpassingly great in all of that. But he was very much more. He wished to see his country not only materially prosperous and politically successful, but beyond that, and above it, he wished to see the intellectual, moral, and spiritual life of the people developed. This is the side of Washington to which too little attention has been given. He did not fail

during his lifetime to give the most painstaking thought to these subjects. In his Farewell Address he solemnly warned his countrymen that these are the foundations on which rest all American institutions. More than that, they are the foundations on which all civilization must rest. It is as an expounder of these great principles that he performed the greatest service for the world.

Our country has prospered, our Government is secure. But that prosperity and that security flow from the school and the church. They are the product of the mind and the soul. They are the result of the character of the American people. Through and through Washington is the great example of character. He sought to bestow that heritage upon his country. We shall fall in our estimation and understanding of him unless we remember that during his lifetime he helped to build a place of religious worship; in his will he provided for institutions of learning, and in his Farewell Address he emphasized the spiritual values of life. But what he did was even more eloquent than what he said. He was a soldier, a patriot, a statesman; but in addition to all these he was a great teacher.

RESEARCH WORK, BUREAU OF SOILS (S. DOC. NO. 69)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, with an accompanying letter from the Director of the Bureau of the Budget, transmitting a supplemental estimate of appropriation for the Department of Agriculture, fiscal year 1927, amounting to \$185,000, to enable the Secretary of Agriculture to continue the research work of the Fixed Nitrogen Research Laboratory under the Bureau of Soils of that department, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

MESSAGE FROM THE HOUSE—ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the Speaker of the House had affixed his signature to the following enrolled bill and joint resolutions, and they were thereupon signed by the Vice President:

H. R. 6740. An act granting the consent of Congress to the Norfolk & Western Railway Co. to construct a bridge across the Tug Fork of Big Sandy River at or near a point about 2½ miles east of Williamson, Mingo County, W. Va., and near the mouth of Lick Branch;

S. J. Res. 41. Joint resolution providing for the filling of a proximate vacancy in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress; and

H. J. Res. 153. Joint resolution providing for the participation of the United States in the sesquicentennial celebration in the city of Philadelphia, Pa., and authorizing an appropriation therefor, and for other purposes.

PETITIONS AND MEMORIALS

Mr. FRAZIER presented resolutions adopted by the board of directors of Lower Yellowstone Irrigation District No. 2 and officers of Lower Yellowstone Districts Nos. 1 and 2, favoring the establishment and maintenance of an irrigation project in Lower Yellowstone District No. 2, which were referred to the Committee on Irrigation and Reclamation.

Mr. WARREN presented resolutions adopted by the Cheyenne (Wyo.) Chamber of Commerce, favoring the passage of legislation for the establishment and maintenance of the Casper-Alcova reclamation project in the State of Wyoming, which were referred to the Committee on Irrigation and Reclamation.

He also presented a memorial of the Round Table Club, of Cheyenne, Wyo., remonstrating against any extension of the boundaries of Yellowstone National Park, which was referred to the Committee on Public Lands and Surveys.

Mr. PEPPER presented a memorial of the Philadelphia (Pa.) Board of Trade, remonstrating against the recognition by the United States of the Soviet Government of Russia, which was referred to the Committee on Foreign Relations.

He also presented a memorial of the Philadelphia (Pa.) Board of Trade, remonstrating against the passage of Senate bill 2261, the so-called Federal home loan bank bill, and House bill 5581, the so-called national home loan bill, which was referred to the Committee on Banking and Currency.

Mr. WILLIS. Some time ago Senate Joint Memorial No. 5 of the Territory of Alaska, requesting that an adequate survey be made of the region of southwestern Alaska and adjacent waters and that the coast be properly lighted with lighthouses and blinkers, and urging certain legislation, was referred to the Committee on Territories and Insular Possessions. I think it really belongs to the Committee on Commerce.

Likewise, Senate Joint Memorial No. 1 of the Territory of Alaska, relative to certain rivers and harbor improvements, it seems to me should go to that committee.

I therefore ask unanimous consent that the Committee on Territories and Insular Possessions be discharged from the further consideration of these two memorials and that they be referred to the Committee on Commerce.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. FLETCHER. I ask to have printed in the RECORD House Memorial No. 2 adopted by the Legislature of Florida and that it may be referred to the Committee on Public Lands and Surveys.

The VICE PRESIDENT. Without objection, it is so ordered.

The memorial is as follows:

House Memorial 2 to the Congress of the United States asking that certain public lands in Palm Beach County formerly used for life saving and refuge purposes, but now unused, be made a public park, aviation field, and memorial, and that an appropriation be made for improving and maintaining the same

Whereas the United States is now the owner of certain lands in the city of Jupiter, in the county of Palm Beach, in the State of Florida, known and described as follows:

"Government lots Nos. 4 and 5, in section 5, township 41 south, range 43 east, Palm Beach County, Fla., containing about 80 acres of land, and having a frontage on the Atlantic Ocean of approximately half a mile"; and

Whereas upon the said piece or parcel of land there was formerly a building or buildings maintained by the United States as and for a life-saving station and refuge for shipwrecked sailors and others; and

Whereas the said buildings on the said land have been sold, razed, and removed and the said land, since such removal and for over 25 years last past, have been wholly unused; and

Whereas the new public highway known as State Highway No. 4, connecting the cities of Jacksonville and Miami, in the State of Florida, will traverse the said land, and which said highway, now about 50 per cent completed, will constitute the main lane of traffic along the east coast of Florida, and will be used by thousands of tourists, non-residents of Florida, motoring through the State; and

Whereas there is now maintained by the United States in the city of Jupiter a lighthouse and a wireless station with an adequate personnel; and

Whereas the lands along the Atlantic Ocean in the State of Florida are for the greater part held and used by private persons, to the exclusion of the public, and such ownership and use is rapidly increasing to the point where it is apparent that in a short time the ocean front will be inaccessible to the general public; and

Whereas the health, comfort, and enjoyment of not only the residents of the State of Florida but also that of thousands of non-residents who visit the State either for health or pleasure will be promoted by a public park fronting on the ocean; and

Whereas there are now no public parks along the Atlantic Ocean between the city of Savannah, in the State of Georgia, and the city of Miami, in the State of Florida; and

Whereas there are few, if any, landing fields for aviators on or along the east coast of Florida, and the lands herein referred to are both admirably located and suitable for an aviation field for either military, commercial, or pleasure purposes, and for all such purposes; and

Whereas there are no national memorials in the State of Florida to the memory of those who made the supreme sacrifice in the World War; and

Whereas all of the foregoing objects may be accomplished and economically maintained by joining them in one project: Be it

Resolved by the Legislature of the State of Florida, That the Congress of the United States is hereby respectfully requested to enact the necessary legislation to convert and create the said piece and parcel of land into a public park, aviation field, and memorial, to be appropriately named, and to make a sufficient appropriation to improve and maintain the same for such purposes, and that our Senators and Representatives in Congress use all honorable means to secure the enactment of such legislation and the making of such appropriation or appropriations:

Resolved further, That the secretary of state of the State of Florida be requested to send a copy of this memorial, under the great seal of the State, to each Senator and Representatives in Congress from the State of Florida, and that he also send a copy thereof to the President of the United States, to the Secretary of War, to the Secretary of the Navy, and to the Secretary of the Interior.

Approved by the governor November 30, 1925.

STATE OF FLORIDA,
OFFICE OF SECRETARY OF STATE.

I, H. Clay Crawford, secretary of state of the State of Florida, do hereby certify that the above and foregoing is a true and correct copy of House Memorial No. 2, as passed by the Legislature of the State of Florida (extraordinary session held in November, 1925), as shown by the enrolled memorial on file in this office.

Given under my hand and the great seal of the State of Florida at Tallahassee, the capital, this the 16th day of February, A. D. 1926.

[SEAL.]

H. CLAY CRAWFORD,
Secretary of State.

REPORTS OF COMMITTEES

Mr. FRAZIER, from the Committee on Pensions, to which was referred the bill (H. R. 306) to amend the second section of the act entitled "An act to pension the survivors of certain Indian wars from January 1, 1859, to January, 1891, inclusive, and for other purposes," approved March 4, 1917, as amended, reported it with an amendment and submitted a report (No. 199) thereon.

Mr. BINGHAM, from the Committee on Commerce, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 2974) granting the consent of Congress to the county of Barry, State of Missouri, to construct a bridge across the White River (Rept. No. 201); and

A bill (S. 2975) granting the consent of Congress to the county of Barry, State of Missouri, to construct a bridge across the White River (Rept. No. 202).

Mr. CUMMINS, from the Committee on the Judiciary, to which was referred the bill (S. 2296) authorizing insurance companies or associations or fraternal or beneficial societies to file bills of interpleader, reported it without amendment.

He also, from the same committee, to which was referred the bill (H. R. 6536) to amend section 129 of the Judicial Code, relating to appeals in admiralty cases, reported it with an amendment.

AGRICULTURAL APPROPRIATIONS

Mr. McNARY. From the Committee on Appropriations I report back favorably with amendments the bill (H. R. 8264) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1927, and for other purposes, and I submit a report (No. 200) thereon. I desire to state that I shall call up the bill for action on the first opportunity, to-day or to-morrow.

The VICE PRESIDENT. The bill will be placed on the calendar.

PAYMENT TO SENATOR EARLE B. MAYFIELD

Mr. ERNST. From the Committee to Audit and Control the Contingent Expenses of the Senate, for the Senator from Ohio, [Mr. FESS], I report a resolution and ask unanimous consent for its immediate consideration.

The resolution (S. Res. 155) was read, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay out of the appropriation for expenses of inquiries and investigations, fiscal year 1925, to Hon. EARLE B. MAYFIELD, a Senator from the State of Texas, \$30,500 as reimbursement for expenses incurred in defending his right by election in 1922 to a seat in the Senate of the United States.

Mr. ROBINSON of Arkansas. I concur in the request for the present consideration of the resolution.

The resolution was considered by unanimous consent and agreed to.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MOSES:

A bill (S. 3229) granting a pension to Annie Young (with accompanying papers); to the Committee on Pensions.

By Mr. JONES of Washington:

A bill (S. 3230) granting the consent of Congress to W. D. Comer and Wesley Vandercook to construct, maintain, and operate a bridge across the Columbia River between Longview, Wash., and Rainier, Oreg.; to the Committee on Commerce.

By Mr. BRATTON:

A bill (S. 3231) for the adjustment of water-right charges on the Carlsbad irrigation project, New Mexico, and for other purposes; and

A bill (S. 3232) for the adjustment of water-right and construction charges on the Carlsbad irrigation project, New Mexico, and for other purposes; to the Committee on Irrigation and Reclamation.

By Mr. NORBECK:

A bill (S. 3233) granting a pension to Eugene Little;

A bill (S. 3234) granting a pension to Mariano Gonzales; and

A bill (S. 3235) granting a pension to Edgar Fire Thunder; to the Committee on Pensions.

A bill (S. 3236) to provide for the acquisition, sale, and closer settlement of delinquent lands on irrigation projects by

the Government to protect its investment; to the Committee on Irrigation and Reclamation.

A bill (S. 3237) authorizing a per capita payment to Indians of the Rosebud Reservation, S. Dak., from their tribal funds held in trust by the United States; and

A bill (S. 3238) authorizing and directing the Secretary of the Interior to prepare, approve, and submit to Congress a final roll of the Indians comprising what is commonly known and referred to as the Sioux Nation, and providing for the issuance of regulations for the election of tribal business committees, and other purposes; to the Committee on Indian Affairs.

By Mr. MEANS:

A bill (S. 3239) for the relief of Saks & Co. and R. Depue; and

A bill (S. 3240) to authorize the Comptroller General of the United States to relieve James O. Williams, former special disbursing agent of the Bureau of the Census, in the settlement of his account; to the Committee on Claims.

By Mr. WALSH:

A bill (S. 3241) for the relief of Frank B. Hawley (with accompanying papers); to the Committee on Claims.

By Mr. McKINLEY:

(By request.) A bill (S. 3242) to authorize a change in postage on books in circulation to or from certain public libraries; to the Committee on Post Offices and Post Roads.

A bill (S. 3243) granting a pension to Sallie G. Williams (with an accompanying paper);

A bill (S. 3244) granting a pension to Robert C. Lewis (with accompanying papers);

A bill (S. 3245) granting an increase of pension to Thomas E. Roberts (with accompanying papers);

A bill (S. 3246) granting a pension to Charles H. Woodward (with accompanying papers);

A bill (S. 3247) granting a pension to Frederick J. Hampy (with accompanying papers);

A bill (S. 3248) granting an increase of pension to Bertel Pederson (with accompanying papers);

A bill (S. 3249) granting an increase of pension to Robert Miller (with accompanying papers); and

A bill (S. 3250) granting an increase of pension to S. A. Wallace (with accompanying papers); to the Committee on Pensions.

A bill (S. 3251) for the relief of George W. Forbes (with an accompanying paper); and

A bill (S. 3252) for the relief of Robert Baker (with accompanying papers); to the Committee on Military Affairs.

By Mr. SCHALL:

A bill (S. 3253) to amend section 89 of chapter 5 of the Judicial Code of the United States; to the Committee on the Judiciary.

By Mr. McNARY:

A bill (S. 3254) conferring jurisdiction upon the Court of Claims to hear and determine claims of certain bands or tribes of Indians residing in the State of Oregon; to the Committee on Indian Affairs.

By Mr. STANFIELD:

A bill (S. 3255) for the relief of certain counties in the States of Oregon and Washington, within whose boundaries the re-vested Oregon & California Railroad Co. grant lands are located; to the Committee on Public Lands and Surveys.

A bill (S. 3256) to provide capital for home building and ownership, to create standard forms of investment based on home loan mortgages, to equalize rates of interest upon home loans, to furnish a market for United States bonds, to create Government depositaries and financial agents for the United States, and for other purposes; to the Committee on Banking and Currency.

By Mr. WILLIS:

A bill (S. 3257) granting an increase of pension to Joan H. Shumway (with accompanying papers); to the Committee on Pensions.

By Mr. SHORTRIDGE:

A bill (S. 3258) granting an increase of pension to Hubert B. Rose; to the Committee on Pensions.

By Mr. HEFLIN:

A joint resolution (S. J. Res. 59) authorizing the Secretary of War to lend 3,000 cots, 3,000 bed sacks, and 6,000 blankets for the use of the encampment of the United Confederate Veterans, to be held at Birmingham, Ala., in May, 1926; to the Committee on Military Affairs.

INDIAN WAR PENSIONS

Mr. KING submitted an amendment intended to be proposed by him to the bill (H. R. 306) to amend the second section of the act entitled "An act to pension the survivors of certain Indian wars from January 1, 1859, to January, 1891,

inclusive, and for other purposes," approved March 4, 1917, as amended, which was ordered to lie on the table and to be printed.

CHANGES OF REFERENCE

On motion of Mr. NORBECK, the Committee on Pensions was discharged from the further consideration of the bill (S. 2840) for the relief of Daniel S. Taylor, and it was referred to the Committee on Military Affairs.

On motion of Mr. SACKETT, the Committee on Interstate Commerce was discharged from the further consideration of the bill (S. 3212) granting the consent of Congress to the city of Louisville, Ky., to construct a bridge across the Ohio River at or near said city, and it was referred to the Committee on Commerce.

PRESIDENTIAL APPROVAL

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that on the 20th instant the President had approved and signed the act (S. 2464) to amend section 95 of the Judicial Code, as amended.

ADMINISTRATION OF SHERMAN ANTITRUST LAW

The VICE PRESIDENT. Resolutions coming over from a previous day are now in order, and the clerk will state the first one.

The CHIEF CLERK. A resolution (S. Res. 153) submitted by the junior Senator from Utah [Mr. KING] on yesterday relative to the administration of the Sherman antitrust law.

Mr. CURTIS. I ask the Senator if he will not allow the resolution to go over until to-morrow? I have not yet had a chance to read it. I desire to take the matter up with the Department of Justice, if I may.

Mr. KING. Of course I shall be glad to accede to the desire of the Senator from Kansas. I only want to state to him that I have a resolution pending before the Committee on the Judiciary for the investigation of the operations of the Sherman antitrust law and the Clayton Act, with a view to determining whether supplemental legislation is needed to deal with trusts. As the Senator from Kansas asks that the resolution may go over until to-morrow, I yield to his request reluctantly because I am anxious to get information by reason of the investigation which is being made. I want to know whether the present laws are sufficient to deal with monopolies and trusts and I want to show also the ineffectiveness of the Department of Justice and of the predecessor of the present Attorney General in prosecuting those who violate the law.

The VICE PRESIDENT. The resolution will go over.

CORPORATIONS WITH INCOMES EXCEEDING \$1,000,000

The CHIEF CLERK. The next resolution coming over from the previous day is Senate Resolution 154, submitted by the junior Senator from Utah [Mr. KING] on yesterday, requesting the Secretary of the Treasury to transmit to the Senate a list of corporations with incomes exceeding \$1,000,000.

Mr. KING. The chairman of the Committee on Finance [Mr. SMOOR] has asked me if I would consent that the resolution be referred to that committee. I shall consent to the reference with the understanding that it shall be granted immediate consideration by the committee.

Mr. SMOOR. I will say to my colleague that I shall call the committee together as soon as possible and ask it to consider the resolution.

The VICE PRESIDENT. The resolution will be referred to the Committee on Finance.

URGENT DEFICIENCY APPROPRIATIONS

Mr. WARREN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8722) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1926, and prior fiscal years, to provide urgent supplemental appropriations for the fiscal years ending June 30, 1926, and June 30, 1927, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 23 and 43.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 12, 13, 14, 16, 18, 19, 21, 22, 24, 30, 31, 33, 34, 35, 36, 37, 40, 42, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, and 57, and agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and

agree to the same with an amendment as follows: In the matter inserted by said amendment before the sum "\$125,000" insert the following: "fiscal year 1926"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "For the purchase and exchange of an automobile for the Vice President, fiscal year 1926, \$5,135.75"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "For stationery for Senators, committees, and officers of the Senate, fiscal year 1926, \$2,500"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "\$15,000"; and the Senate agree to the same.

Amendment numbered 20: That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert "\$1,800"; and on page 9 of the bill in lines 24 and 25 strike out "K Street" and insert in lieu thereof "Connecticut Avenue"; and the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: In line 4 of the matter inserted by said amendment strike out the following: "fiscal year 1926, and"; and the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"Chippewa Indians of Minnesota: For compensating the Chippewa Indians of Minnesota for timber and interest in connection with the settlement for the Minnesota National Forest, \$422,939.01, with interest thereon at the rate of 5 per cent per annum from February 1, 1923, to the date of settlement, said total amount to be deposited to the credit of the Chippewa Indians of Minnesota as interest on the permanent fund arising under the provisions of section 7 of the act of January 14, 1889, as authorized by the act of February 28, 1925."

And the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert: "\$81,640.37"; and the Senate agree to the same.

Amendment numbered 32: That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"For contingent expenses, including the same objects specified under this head in the act of making appropriations for the Department of Justice for the fiscal year 1926, \$4,000.

"Pueblo Lands Board: For equipment and supplies, including the purchase of an automobile (at a cost not exceeding \$800) and for the maintenance, repair, and upkeep thereof, and the purchase of a photostat machine complete (at a cost not to exceed \$1,600) and for repairs and supplies therefor, fiscal year 1926, \$3,000."

And the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment as follows: In lieu of the sum named in said amendment insert the following: "\$25,000"; and the Senate agree to the same.

Amendment numbered 41: That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows: In lieu of the matter inserted by said amendment insert the following:

"FEDERAL FARM LOAN BUREAU

"For personal services for the fiscal years that follow:

"For 1926, \$41,325;

"For 1927, \$119,020;

"In all, \$160,345: *Provided*, That \$17,841 for the fiscal year 1926 and \$42,820 for the fiscal year 1927 shall be available for personal services in the District of Columbia.

"For miscellaneous expenses, including the same objects specified under this head in the Treasury Department appropriation acts for the fiscal years that follow:

"For 1926, \$18,750;

"For 1927, \$55,000;

"In all, Federal Farm Loan Bureau, \$234,095, payable from assessments upon Federal and joint-stock land banks and Federal intermediate credit banks."

And the Senate agree to the same.

The committee of conference have not agreed on amendments numbered 17, 27, 28, 39, 58, 59, and 60.

F. E. WARREN,
CHARLES CURTIS,
LEE S. OVERMAN,

Managers on the part of the Senate.

MARTIN B. MADDEN,
D. R. ANTHONY, Jr.,
JOSEPH W. BYRNS,

Managers on the part of the House.

The report was agreed to.

TREASURY AND POST OFFICE APPROPRIATIONS

Mr. WARREN submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5959) making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1927, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 14 and 16.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 5, 7, 8, 11, 12, and 15, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "Except that in unusually meritorious cases of one position in a grade advances may be made to rates higher than the average of the compensation rates of the grade but not more often than once in any fiscal year and then only to the next higher rate"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "For repair and reconditioning of one of the steamers of the Coast Guard for use as an icebreaker, \$100,000, to be immediately available"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment as follows: In lieu of the sum proposed, insert: "\$7,634,800"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment as follows: In lieu of the sum proposed insert "\$1,650,000"; and the Senate agree to the same.

The committee of conference have not agreed on amendments numbered 4 and 13.

F. E. WARREN,
GEO. H. MOSES,
L. C. PHIPPS,

Except on amendment No. 16.

WM. J. HARRIS,
Managers on the part of the Senate.

MARTIN B. MADDEN,
WM. S. VARE,
JOSEPH W. BYRNS,

Managers on the part of the House.

The report was agreed to.

WHY RAILROAD CONSTRUCTION SHOULD BE UNRESTRICTED

LET US RETURN TO THE SEVERAL STATES EXCLUSIVE POWER TO AUTHORIZE NEW RAILROAD CONSTRUCTION WITHIN THEIR RESPECTIVE BOUNDARIES

Mr. MAYFIELD. Mr. President, from the time the Egyptians assembled the stones with which they built the Pyramids and Solomon conveyed the cedars of Lebanon from Tyre to Jerusalem the problems of transportation have vexed the mind of man.

Not since our Government was established have the American people been confronted with so grave an industrial problem as that of transportation. This question has accentuated as no other has the relative rights of State and National Governments and has focused attention on the wisdom of our dual form of government. We have listened to the siren song of nationalism until we have almost been lulled to sleep in the thought that State lines should be completely obliterated and the States surrender to the Federal Government their right to regulate even their domestic affairs. Against such a policy I enter my solemn protest and assert my faith in the fundamental principles upon which our Republic has grown to be the most powerful Government in the world. The whole matter is a milestone which marks the controversy as to whether the States have left any power to regulate their internal affairs. We must meet the issue, not in a narrow, selfish spirit, but upon broad general principles, keeping in view at all times the general welfare of our country.

It would not be inappropriate to divide Federal legislation of recent years into three classes: First, legislation which has resulted from public demands; second, legislation which has been recommended to us by various departments and bureaus of the Government; and, third, legislation which we out of our own experience have conceived to be in the interest of the people.

As regards the first of these types of legislation little uneasiness need be entertained. Matters which have been debated by the people, which have been adequately presented and considered by the press, which have found clear expression in political platforms, and which have influenced elections are likely to receive correct expression in this tribunal. The happy faculty of the American people accurately to judge the necessities for legislation can not be denied, and laws that we enact in response to public demand have a sanction that guarantees not only their observance but their wisdom as well. The foregoing observation applies with almost equal force to legislation which we enact because of a well-founded conviction that it will promote the general welfare of the people. But, Mr. President, frankness compels me to say that I hold in less esteem that legislation which we not infrequently propose and which we sometimes enact because it comes to us bearing the recommendation of the head of some department or of some bureau chief.

Senators familiar with the classics will recall that among the ancient Greeks it was not uncommon for a community desiring to establish a government or to enact a body of laws to send for a Solon, a Draco, or an Aristotle, who on account of his superior knowledge of legislative affairs would be intrusted the task of familiarizing himself with the necessities of a community and devising a constitution or drafting laws adequate to produce the reformation sought to be effected or the relief which the people desired to obtain. This procedure was considered the equivalent of self-government, but the impermanence of such laws has raised questions in my mind as to their value.

If the bureaus and departments surrounding us were full of Solons and Dracos and Aristotles, it would still be dangerous to abandon the idea of looking for the germs of acceptable legislation among the experiences, ideas, and expressions of the people at large and in the channels of public opinion and to seek our information from the experts laboring in our immediate environment where sometimes vision becomes clouded and perspective distorted. It is quite clear that when legislation originated by some departmental Burbank and enacted into law without public demand or sanction, however wise it may have been estimated by its proponents or how well intended by the Congress is found operating to the public disadvantage, it ought to be promptly repealed.

These remarks have particular reference, Mr. President, to certain provisions of the transportation act of 1920. This act, dealing with a subject of vast importance to the progress and prosperity of our country, probably is the most distinguished example of artificial legislation known to our legislative history. It includes details that never had and to-day have no roots in public opinion. The principles of the law were never submitted to or discussed by the people or the press of the country before enactment. The law reflects theories, ideas, and opinions that have never received the approval of the public, but, to the contrary, it violates and contravenes economic and political principles which have always been considered corner stones of our governmental and industrial structures.

Let me now refer particularly to those remarkable provisions of the act as regards the construction and operation of

new railroads, which, in effect, throttle private initiative, lessen opportunity, retard development, and destroy competition.

PARAGRAPH (18), SECTION 1, AND PART OF PARAGRAPH (20) OF TRANSPORTATION ACT OF 1920

Paragraph (18), section 1, of the transportation act of 1920, with the latter part of paragraph (20), imposing penalties for the violation of paragraph (18), is as follows:

(18) After 90 days after this paragraph takes effect no carrier by railroad subject to this act shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this act over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the commission a certificate that the present or future public convenience and necessity require or will require the construction or operation, or construction and operation, of such additional or extended line of railroad, and no carrier by railroad subject to this act shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first have been obtained from the commission a certificate that the present or future public convenience and necessity permit of such abandonment.

(20) Any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person acting for or employed by such carrier who knowingly authorizes, consents to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this section, shall upon conviction thereof be punished by a fine of not more than \$5,000 or by imprisonment for not more than three years, or both.

RESTRICTION OF NEW RAILROAD CONSTRUCTION NEVER DEMANDED BY PUBLIC

Mr. President, immediately preceding my election to membership in this distinguished body it was my good fortune to be a member of the Texas Railroad Commission for a period of 10 years. In that position it was my duty to inform myself of the opinions as well as the necessities of the public in my State concerning railroad matters. During that entire service it was never intimated to me by anyone that legislation on the part of Congress such as just read was necessary or desirable. On the contrary, the people of Texas and the Southwest in general had looked forward to the termination of the war in Europe and a return to normal conditions in America with eager expectation that the new era would bring a resumption of liberal railroad construction, which they have always identified with progress and prosperity.

A year or two elapsed before the public of our section had its attention drawn to newspaper articles announcing the filing with the Interstate Commerce Commission of applications by local railroads for authority to construct new mileage in our State, and then the people realized with astonishment that in 1920 the Congress of the United States had defined railroad construction without Federal Government sanction as a crime, and classified individuals so offending as bad as horse thieves, burglars, or bootleggers. In other countries railroad builders are knighted; here it seems they are to be indicted. It is a distinction, but with a substantial difference.

GENESIS OF PARAGRAPH (18) SECTION 1

It is generally understood that the transportation act of 1920 represented collaborated work of the Interstate Commerce Commission and the Committees on Interstate Commerce of the Senate and the House. In 1919 the Interstate Commerce Commission submitted to Congress its annual report, and at the invitation of the Committee on Interstate Commerce of the Senate included in that report recommendations for a legislative program. Among other recommendations was the following:

3. Limitation of railway construction to the necessities and convenience of the Government and of the public and assuring construction to the point of these limitations. The thought underlying the first part of this suggestion is that in some instances, for speculative or competitive reasons, railroads have been built in excess of the reasonable demand and in excess of the necessities of the territory built into, as well as of its reasonably prospective traffic. A railroad once built ordinarily must be operated and permitted to earn a living. The public should not be burdened with the maintenance of two or more railroads when one would substantially answer every legitimate purpose. In this connection it would be desirable that in the exercise of its powers the Congress should say that no railroad shall be constructed or extended that is to engage or is engaged in interstate commerce unless, in addition to required authority from the State, a certificate of public convenience and necessity is secured from Federal authority. The thought underlying the second part of this suggestion is that a railroad having been permitted, by public franchise and the powers that go with it, to build into a given territory, it should be required to properly serve and develop that territory. And in developed terri-

tory it is important to provide for the extension of short branch or spur lines or spur tracks to communities and industries that should be served and that can furnish sufficient traffic to justify such extension. (Pp. 2 and 3, Thirty-third Annual Report of I. C. C.)

Mr. President, excepting the last sentence, there is not a statement or a recommendation in the paragraph just quoted with which one thoroughly familiar with the question of transportation can agree. The commission not only erred in its premise but in its conclusions. The ideas advanced offend against our Constitution, against the laws of logic and probability, and ignore the facts of our economic history.

POWER TO COMPEL CONSTRUCTION COUPLED WITH POWER TO PREVENT

It proposed to couple, and Congress in deference to the recommendation did attempt to couple—

Limitation of railway construction to the necessities and convenience of the Government and of the public—

With an assurance of—

construction to the point of these limitations.

It apparently was the thought of the commission that these new powers—that is, power at one point to prevent new construction and power at another to compel such construction—to be delegated by Congress to the commission should go hand in hand. Accordingly, the restrictive power solicited by the commission was given expression by Congress in the paragraphs which have been read, and an effort to confer on the commission power to coerce construction was expressed in paragraph (21), section 1, as follows:

The commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this act, party to such proceeding to . . . extend its line or lines.

A refusal on the part of the carrier to obey an order of the commission requiring it to extend its line or lines was not made a crime, as was unauthorized construction, but only subjected the carrier to a penalty of \$100 per day, recoverable in a civil action. Manifestly, no Senator would for a moment contend that under our Constitution or as a matter of practical administration the Government has the power to coerce an unwilling railroad corporation to extend its line or lines. Surely there is not a lawyer in the Senate who believes that Congress has the power to plan investments for the citizens of this country and to compel them by penalties to accept such investments.

No such conception was entertained with reference to the sale even of Liberty bonds at a time when the purchase of such bonds by our citizens was essential to the maintenance of the life of the Nation and the perpetuity of the Republic. Prior to the enactment of the transportation act of 1920 this character of legislation had been addressed to "subjects" rather than to citizens. At the conclusion of the Seven Years' War, in 1763, Frederick the Great undertook to rehabilitate Prussia's dilapidated cities and to revive Prussian industry by commanding his well-to-do subjects to build houses. But that occurred in militarized Prussia, and such action has never before found favor in this land of liberty and freedom.

As before stated, the recommendation of the Interstate Commerce Commission which found expression in the transportation act of 1920 correlated the proposition of preventing new railroad construction without Federal sanction with the proposition of compelling the extension of old lines of railroad by Federal mandate, upon the theory, no doubt, that the proposed restriction on new construction would paralyze, as it has substantially done, new construction, and thereby confer monopolies on existing carriers with respect to their respective local territories. Clearly the commission conceived that it might be contrary to the public welfare for Congress to grant a complete monopoly of the transportation business of the country to carriers existing at the date the transportation act became effective, without at least holding them liable to build additional lines of railroad in territories which the commission thereafter might discover needed new or additional transportation facilities. If such were the idea, the whole conception is wrecked by the fact that we can not under the Federal Constitution confer upon the commission power to create new railroads by coercion. Coercion always was and in the transportation act remains a valid instrumentality for destruction, but it never was and will never be effective in behalf of construction.

ERA OF SPECULATIVE RAILROAD CONSTRUCTION HAS PASSED

It is difficult to understand how the Interstate Commerce Commission reached the conclusion in 1919 that the time was opportune to put an end, by law, to further speculative or competitive railroad construction.

As regards speculative railroad construction, it is safe to say that, with trivial exceptions, the era of speculative railroad construction ended many years before the commission undertook to arouse the minds of the Interstate Commerce Committee of the Senate in regard to its danger.

During the era of commercial, industrial, and financial activity that followed the Civil War the people, encouraged by the Government, set out to finance and create a great transportation system that would bind together all members of the recently distracted union. Railroad construction, far ahead of the immediate requirements of that time, was induced by liberal grants of land by Federal and State Governments, by bond issues donated by States and counties, and by private donations. Communities vied with each other in efforts to secure the location of new lines. Under such circumstances it would have been surprising had not some unnecessary and useless construction occurred. The fact was, most of the territory was virgin; little through traffic existed; locations were related to local conditions and local conditions called for prophecy on the part of railroad promoters rather than perception, because conditions then existing in few instances justified construction. Everywhere the eye of the railroad builder looked and was compelled to look to the unknown and highly speculative future. This period lasted about 25 years, extending from the close of the Civil War to about 1890.

The statement has recently been made that there exist in the United States about 30,000 miles—in another case the statement fixed the mileage at 10 per cent of the entire existing mileage which would be about 25,000 miles—of weak and unnecessary railroads that ought to be abandoned and scrapped. The fact so asserted is questionable and the conclusion more so, but if the correctness of the figures be granted, it is a matter of great surprise if, at the close of the great era of railroad construction in the United States, resulting in the creation of 252,844.99 miles of mail track, there does not remain even a greater percentage of the mileage so induced and so constructed, the territory of which as yet fails to supply traffic adequate to produce compensatory revenues.

That so small a percentage of the total railroad mileage of this country, for one reason or another, fails as yet to justify its creation, is a feeble foundation on which to predicate conclusions that further construction or individual initiative, whether speculative or not, should be treated as a crime.

It has already been shown that long prior to the date of the transportation act, the era of speculative railroad construction in America had closed. The total main track of all railroads in the United States in 1870 was 52,922 miles. The five-year period following the Civil War was just about sufficient for the great impulse in favor of railroad construction to become effective. The results were realized principally during the next two decades. In 1880 main-track mileage was 93,267 miles, an increase of 40,345 miles during the preceding decade or at the rate of 4,034 per annum. By 1890 the main-track mileage had grown to 163,597 miles, an increase during the preceding decade of 70,330 miles or at the rate of 7,033 miles per annum. This was the period of greatest construction in the history of American railroads. In 1900 the main-track mileage had grown to 193,345 miles, an increase during the preceding decade of 29,748 miles or at the rate of 2,975 miles per annum.

By 1890 the legislative policy of the country had changed, and, besides, public gratuities to railroad builders were no longer common. However, between 1900 and 1910 there was a revival of railroad construction. In 1910 the main-track mileage had increased to 240,293 miles, an increase during the preceding decade of 46,948 miles, or at the rate of 4,694 miles per annum.

The close of this decade witnessed what we may regard as substantially the end of the great railroad construction era in our country. The work of that period included the activities of George Gould and B. F. Yoakum, the former planning and promoting the construction of the Western Pacific, and the latter planning and promoting the construction of the Gulf Coast Lines in Louisiana and Texas, representing the last promotions which have occurred in this country involving the construction of entirely new systems.

From 1910 to 1920, the year of the adoption of the transportation act, the increase of main-track mileage was only 12,551 miles, or at the rate of only 1,255 miles per annum, and it may be added that, while this decade included the period of the war in Europe, railroad construction in the United States during the last four years prior to the war—that is, from 1910 to 1914—was confined almost exclusively to the completion of undertakings previously planned, and the cessation of substantial construction during that decade is not to be attributed entirely, if even substantially, to the war in Europe.

In 1923, the main-track mileage of the country had decreased to 250,222.09 miles, a decrease in the first three years following the enactment of the transportation act of 2,622 miles, or at the rate of 874 miles per annum.

During the period of great railroad construction, say from the close of our Civil War to about 1910, approximately 200,000 miles of railroad now constituting the main body of the best and greatest transportation system on earth, were promoted, financed, and constructed under laws which not only extended entire liberty to individual initiative, but under which for several decades public gratuities were given to promoters, the value of which often approximated the actual cost of construction. During the 10 years preceding the enactment of the transportation act a total of only 12,551 miles of railroad was built. When we reflect that west of the Mississippi River there yet remain areas as large as some of the largest States of the Union that have no railroad transportation whatever, and that there exist other areas, served only by a single line, that have no competitive service—the highest inducement to good service—it seems to have been an act of absurdity to pass a law in 1920, the effect of which has been to bring railroad construction to a standstill in the United States.

The period in which any substantial amount of unnecessary or improvident railroad construction can be financed has long since passed. Practically all laws that provided public gratuities have been repealed. A disposition in favor of private grants and donations on the part of individuals, beneficially affected, alone remains and in few, if any, instances to-day do such donations suffice to secure the construction of mileage not otherwise justified. There is no business undertaking, throughout the whole country, so difficult to finance as the construction of a new railroad. The promoter of any railroad project in the United States, who succeeds to-day in running the gantlet of investment bankers, trust companies, and insurance companies, has a certificate of public convenience and necessity, which he can guarantee to the world is safe and sound.

RESTRICTION OF COMPETITIVE CONSTRUCTION FALSE DOCTRINE

As to the thought that it will be in the interest of the country to restrict further construction of competitive railroads "to the reasonable demand and necessities of the territory built into as well as its reasonable prospective traffic" let me observe the proposition holds good only up to the point of attempted application. In the case of Utah Terminal Railway Co. (F. D. 36, 72 I. C. C., 93-94), Division 4 of the commission, in its report, denying the railway company the privilege of constructing a branch line to reach certain coal mines that were already served by the Denver & Rio Grande Western Railroad, interpreted paragraph (18) so as to give it a broader application than the terms of the act itself, and indicated that the language of its 1919 report implied more than it said. The report of Division 4 stated:

While one of the purposes of the transportation act of 1920 was to preserve competition between carriers, the provisions of paragraphs (18) to (20), inclusive, of section 1 negative any presumption that it was the purpose of Congress to permit the construction of new and competitive lines of railroad where existing facilities are adequate or can be made so by the exercise of available administrative remedies.

It is true that the full commission upon rehearing ultimately granted the Utah Terminal Railway Co. the certificate which had been denied by Division 4, but neither Division 4 nor the commission indicated that the language quoted from the adverse report of Division 4 was a broad extension of the "underlying thought" expressed by the commission in its 1919 report. Reports on subsequent applications for convenience certificates indicate that the commission still holds to the view stated by Division 4 as regards the principle which governs it with respect to applications for authority to build and operate new lines or to extend old ones.

I do not pause to argue that the commission's interpretation of the act is erroneous. Were that plain we might rely upon the courts or the commission itself to correct the error. The peculiar fact is that the act was so constructed as to leave all "underlying thoughts" to the Interstate Commerce Commission. The act nowhere undertakes to define what shall constitute "public convenience and necessity," and since the commission, at least recommended and urged the enactment of the law, it is difficult to dispute whatever implications the commission attaches to it.

But if the implication attached by the commission to the act as quoted is correct, the act abolished the possibility of railroad competition in all those vast areas without railroad service at the time the act was adopted into which, presumably, only one railroad, if any, will be permitted to be constructed or operated, and also in those equally vast areas where but one railroad provided service at the time the act became effective.

Almost instantly throughout the country the railroads have reacted, as might have been expected, to this prohibitory and paralyzing principle. They are claiming that no matter how great or small the volume of traffic in the territories exclusively served by them, whether such territories be fully or only partially developed, whether railroad earnings be slight or exceed the standard return fixed by the commission, they are entitled by law to have and to hold forever exclusive rights in such local territories. They treat proposed new construction as an "invasion" of their territories, and denounce any proposed competition as a "diversion" of their traffic, referring to the territories and traffic of the people, whose servants they are.

In Texas one railroad proposed to build a branch to a great industrial district in the western suburbs of Dallas, which heretofore was served by but one line; another railroad proposed to build into the Rio Grande Valley, which lately has challenged the world's attention as a district calculated to surpass southern California, heretofore served by but one line; another railroad has sought permission to extend its lines to the newly constructed public waterway at Port Arthur. In each instance the single occupying carrier has held up and is preventing the proposed new development by a claim predicated squarely on the language used by the commission in the Utah Railway case, that the district occupied by it—

is adequately served by it, and that it is able and willing to provide any additional facilities that may become necessary.

Mr. President, any law passed by Congress that admits of such an interpretation is an obnoxious and paralyzing law and ought to be repealed.

When and where was it ever true that it was better for a community or a city or a port to have one railroad rather than two?

When and where was it ever true that a community, a city, or a port secured better service or lower rates out of one railroad than it did out of two?

When and where did the people of the country ever signify to Congress any idea or desire that railroad competition not already existing should be prevented?

The transportation act is careful to preserve competition where competition already exists. Paragraph (4), section 5, regarding consolidations, provides that—

In the division of such railways into such systems under such plan, competition shall be preserved as fully as possible.

Mr. President, if it is a correct economic policy to preserve competition in those areas already served by more than one carrier, why is it wrong to permit competition in those equally great areas that have the service of but one carrier, or of no carrier at all?

To permit a railroad company to close the gates of a large city, the entrance of a large and fertile valley, or the door to a great port, and declare—

No trespassing allowed; all this is mine. I can handle all the traffic that my service originates. If any additional facilities are required, I alone have the right to furnish them—

Is to create in this country a monopoly and a new form of tyranny which violates every principle on which our Government was founded, and gives to such corporations a strangle hold on the commerce and industrial life in the unfortunate districts that such corporations occupy, which is to become more blighting in its effects than paralysis is to the limbs of a strong man.

It is false doctrine.

No single railroad on earth is adequate or can be made adequate to handle all traffic originating in or destined to the superb industrial areas between here and New York City, or between New York and Chicago, or between Pittsburgh and St. Louis, or between Kansas City and the Texas gulf ports, or in other districts to-day which are served and tied to every other section of the country by lines that radiate in every direction. But, Mr. President, a single railroad, no matter how inferior, would be sufficient to handle all traffic to and from those areas if no other railroad had been permitted to build to and serve them. Why? Because railroad service itself sets a limitation on the development of traffic in any area. When transportation is inadequate, industry either shrinks to the capacity of the transportation facilities or dies. In this sense and in this sense alone, is a single carrier, occupying an important district, developed or undeveloped, authorized to say that its facilities will be sufficient to take care of all traffic, actual or potential.

What man has failed to observe the transformation that has occurred in hundreds of instances throughout our country—not

here, not there, but everywhere—as regards the growth and prosperity of communities served by but one railroad but which doubled and trebled as the direct and immediate result of the construction and operation of another? No doubt in many instances the linking of such communities to new areas, the creation of new routes of such communities to new areas, the creation of new routes to additional markets with accessibility to new productive areas, accounted in part for growth and improvement, but competition in the very localities themselves, competition not only in service but in rates, has always played an important part.

Mr. President, some loose thinking and much more loose talking has been current to the effect that competition in railroad rates has been abolished by the action of the States and the Federal Government in taking jurisdiction over the subject of rate making, and that rates between points remain the same whether those points are reached by one or more lines. The statement admits of so many qualifications and exceptions that it is hardly entitled to rank as a fact at all. How many times have we not seen the traffic management of an old railroad rushing to revise their tariffs—tariffs immune to attack from every technical standpoint—when a new railroad made its advent or was even only seriously proposed? Industries completely shut out of markets by adverse rates many, many times have found their rates voluntarily adjusted to lower levels enjoyed by competitors at other points when a new railroad entered into the situation.

RATE LEVELS NOT LIKELY TO BE RAISED AS RESULT OF NEW CONSTRUCTION

Mr. President, few students of transportation enthuse over the aphorism of the commission, included in that section of its 1919 report to Congress, which declared that:

A railroad once built ordinarily must be operated and permitted to earn a living. The public should not be burdened with the maintenance of two or more railroads when one would substantially answer every legitimate purpose.

These statements are mere theoretical half truths and were poor justification for legislation that took out of the hands of the several States essential power to authorize the most important form of public improvements, which on the whole had been wisely exercised, and reposed that power exclusively in a department of the Federal Government, where apparently the principles that apply are understood in a sense that is reverse to all previous practice. That "a railroad once built ordinarily must be operated," of course, is true, but that it must be "permitted to earn a living," in the sense that the Government must provide it a living, is obviously illogical and manifestly untrue. Whether the railroad or the individual earns a living depends largely on faculties and circumstances over which the Government has no control and in regard to which, if the faculty is wanting or conditions are adverse, the Government has neither a duty to perform nor a power to relieve.

It is contended that improvident railroads will be constructed and the Interstate Commerce Commission will not be able to make a system of rates under section 15a of the transportation act that will take care of these improvident roads if paragraph 18, section 1, of the transportation act is repealed, and the people are left free to construct railroads. This idea is purely theoretical and exists more in the imagination than in fact. The money required to construct and equip any substantial amount of railroad mileage is so great, the financing of new construction is so difficult, and the rate of return now established, even on successful ventures is so low as compared with investments in other lines of business, it is absurd to imagine the construction of an amount of new, improvident railroads that would affect rate levels either throughout the country or in any district established by the grouping of railroads.

The dominating factor in railroad construction is the density of traffic. The theory on which it is assumed that the commission ought to have power to prevent improvident railroad construction supposes the possibility that existing density of traffic might, by the construction of new, improvident mileage, be so divided throughout the country or in a particular district that it would fail to yield under existing rate levels the standard return fixed by the commission.

On December 31, 1924, according to the commission's report, the main-track mileage of the railroads of the country, not including switching or terminal companies, was slightly in excess of 250,000 miles. Their outstanding capitalization aggregated \$21,744,682,000, while their investment accounts showed a total of \$22,173,482,000. They originated 1,288,357,000 tons of revenue freight, and their gross operating revenues for 1924 were \$5,921,490,000. The aggregate density of traffic for class

1 railroad—this is, today the aggregate number of tons of revenue freight hauled 1 mile per mile of railroad throughout the country—is 1,649,369 tons.

How much new improvident railroad mileage do Senators suppose would have to be constructed to decrease this mighty traffic to a point where the decrease would have any effect whatever on rate levels? My answer to the question is that the utmost conceivable amount of new improvident railroad construction, consistent with the state of sanity on the part of the people for whom we legislate, would have no more effect on general rate levels than the stream of water that flows down Rock Creek would have on the level of the sea. It costs today about \$50,000 per mile to construct and equip on good standards a new single-track railroad. According to its thirty-ninth annual report, the commission rejected in 1924 proposals to construct new railroads aggregating only 234.03 miles, and it is significant to note that the year 1924 was one of almost unparalleled prosperity, characterized by an abundance of capital seeking investment. If such a thing be possible, let it be imagined that after the passage of Senate bill No. 750 people can be found in the country next year so mentally deficient as to be willing to invest the money necessary to construct 1,000 miles of new, improvident, and unnecessary railroad, with the hope of realizing, after the lapse of several years, a return of 5% per cent on their investment. The cost of construction of this mileage would require about \$50,000,000. The ratio of \$50,000,000 to the existing general railroad investment of \$22,173,482,000 is less than one-fourth of 1 per cent. If this mileage and the money invested performed no public service whatever, originated no traffic whatever, and were hung around the neck of the existing transportation system as a dead weight, its influence on the income required to constitute the standard return of 5% per cent, fixed by the commission, would be as 5 is to 2,217.

The rapidity with which density of traffic is increasing in our country as contrasted with the increase of railroad mileage, provident and improvident, is exceedingly interesting. In 1910 the average density of traffic of all American railroads was reflected by the figure of 1,071,086 tons, carried 1 mile per mile of railroad; by 1920 the average density of traffic had increased to 1,748,451 tons hauled 1 mile per mile of railroad. The increase in density of traffic in the decade referred to was 677,365 tons, or over 63 per cent. The main-track mileage in 1910 was 240,293 miles and in 1920 it was 252,845 miles, an increase of 12,552 miles in the decade, or not quite 5% per cent. (See Tables 1, 3, 5, 6, 7, and 9, Appendix C, pp. 97-103, Thirty-ninth Annual Report of the Commission.)

The first instance in the history of railroad legislation in this country where anyone ever sought to impose indiscriminately on the volume of traffic the burden of producing a fixed return for all the railroads was the enactment of paragraph 2, section 15a, of the transportation act, and even there the obligation imposed on the commission to fix rates on the volume of traffic sufficient to produce a fair return on the carriers' investments is subject to a proviso that particular rates may not be made on an unjust or unreasonable basis. In order to carry out this theory of rate making the transportation act provided for regional consolidations. Under paragraph 4 of section 5 the consolidation of railroads serving territories having a low density of traffic with other railroads serving territories having a high density of traffic was the only possible justification for writing into the transportation act the principle that rates must be fixed so as to allow all railroads a compensatory return regardless of traffic handled. Now comes the Interstate Commerce Commission in its recent report to Congress and admits that after five years of effort it is unable to even devise a plan of carrying out the mandate of Congress under paragraph 4 of section 5.

It is very clear that paragraph 18, section 1, was written into the transportation act as a corollary to the scheme for regional consolidations. Apparently it was thought desirable to maintain the transportation mileage of the country substantially in a static condition until the problem of regional consolidations could be solved. If the plan of regional consolidations is to be stricken from the transportation act, and by all means it should, logically paragraph 18, section 1, must also be repealed. When the reason for the enactment of a law ceases to exist, the law also should cease to exist.

Does the commission mean to tell us that the rates sanctioned by it for the transportation of persons and property are or would likely be higher on traffic moved by two lines of railroad in competition with each other than on a single railroad having a monopoly of the territory, merely because the cost of the second railroad is added to the general railroad investment? Does the commission mean to tell us that if the volume of traffic moving over any railroad is so slender that such traffic

when moved on rates adjusted to fair levels does not afford the carrier a return on its investment, it has any duty or right on earth to compensate the absence or inadequacy of traffic by raising rates? Does it mean to tell us that money invested in new railroads will be any more influential on rates than the same amount of money invested to expand the facilities of existing railroads?

Mr. President, if these questions are to be answered in the affirmative, the Supreme Court of the United States has written many opinions in vain. Brevity of time will not permit the digression necessary to take up a line which itself embraces matter adequate for an independent argument, but it does seem appropriate to observe, without attempting an analysis of the principles upon which railroad rates are made, that only theoretically and in the remotest degree would rate levels be influenced by the construction of any amount of new competitive railroad mileage, or by adding to the general railroad investment of the country the amounts required to construct and equip new mileage. Every year since 1870 the mileage has increased, while during the same time until the last few years, when in fact mileage was diminishing, the rate tendency has been steadily downward.

In reply to the commission's statement that—

The public should not be burdened with the maintenance of two or more railroads when one would substantially answer every legitimate purposes—

it is submitted that the construction of new competitive railroad mileage, even if improvidently planned and hopelessly unprofitable, does not involve any burden whatever on the general public in the sense that it will be influential on rate levels. Such an undertaking will bring disaster to private investors, whose misfortune we will deplore in the same degree that we condemn their judgment, but similar phenomena are constantly occurring around us everywhere in relation to many other lines of business affected with a quasi public interest. It is not the function of government to protect improvident people against their own folly; more particularly, it is not the function of government to undertake, regarding investments, to substitute the judgment of the government for the judgment of the investor.

George Westinghouse at first was considered a visionary, but after he invented and patented the air brake he solicited an interview with Commodore Vanderbilt, the president of the New York Central, with the view of installing his brake on the New York Central. As Westinghouse stood in an outside office cooling his heels, Vanderbilt sent word to him that he had no time to talk to fools. Subsequently, when the value of the brake was demonstrated on other railroads, Vanderbilt sent for Westinghouse to come to see him, and Westinghouse returned to Vanderbilt the reply that he had no time to talk to fools. If the Congress of that period had undertaken through a bureau to prohibit unwise investments related to transportation, it is conceivable that the bureau might have adopted the view of Vanderbilt and prohibited the installation of the air brake.

As sustaining the statement that improvident or unfortunate competitive railroad ventures do not constitute a burden on the general public in the sense that they require the commission to authorize higher rates, permit me to refer briefly to the decision of the commission in the case of the Wenatchee Southern Railway Co., Finance Docket 2172 (90 I. C. C. 237). In that case the apple growers of the Wenatchee Valley, in the State of Washington, organized a railroad corporation and applied to the Interstate Commerce Commission for a certificate under paragraph (18), section 1, for permission to construct and operate a line of railroad from Wenatchee for several miles along the right of way of the Great Northern Railroad and thence in a southerly direction down the valley of the Columbia River over 100 miles to connections with the Northern Pacific and other railroads. The Wenatchee district was already served by the Great Northern, which protested the granting of the certificate. Practically all the traffic of the new road would come from territory served by the Great Northern, and practically all of such traffic consisted of apples, of which the valley produced and customarily shipped via the Great Northern about 28,000 carloads annually. The certificate was at first denied by division 4, but subsequently on rehearing was granted by the full commission. The commission said:

Apparently the earnings in prospect for the applicant will be insufficient for some time to sustain the project as an independent enterprise. Ability to earn is not the sole test of public convenience and necessity, although always a factor to be given consideration. When such ability is shown to exist, a strong presumption may arise that public need for the new facility exists. When not shown to exist, it

may frequently be concluded that such need is too slight to warrant the expenditure necessary for the proposed construction. When it is established, however, that a project will render important public service, and its sponsors are willing to assume the risk of loss in the expectation of ultimate gain either directly through the property or indirectly through benefits to themselves and to the shipping community; the requirements as to the public interest may be fully satisfied, although losses to investors seem more probable than gains. We are to consider what is best in order to foster, build, and make efficient transportation facilities as a whole in the interest of the greatest number. Where only the private aspect is involved, individuals are at liberty to take risks. So far as the public is concerned, the advantages of new or better service may be so great as to justify increasing the burden upon shippers generally by the amount necessary to sustain the facility. If it should prove later, however, that the line, because of competitive conditions, lack of business, or other circumstances, can not be operated profitably under fair divisions and fair rates, the burden of the loss would properly fall upon the investors and not upon the shipping public. Our approval of a new enterprise neither constitutes nor requires that such enterprise will prove successful.

And, moreover, in its report in this same case the commission, contrary to its attitude expressed in the report of division 4 in the Utah Terminal Railway case, and contrary to the view expressed in its 1919 report to Congress, declared that—

Competition within reason, rather than monopoly, is in the public interest.

The "underlying thought" of the commission in 1919 was exactly the reverse. At that time it, in effect, argued that in respect to new railroad construction "monopoly within reason rather than competition is in the public interest."

Mr. President, there should be no further acquiescence in the retention of an act which without defining public convenience and necessity leaves it entirely within the power of the commission at one time or place to apply the rule announced in the Utah Terminal Railway case and at another time or place to apply the diametrically opposite principle announced in the Wenatchee Southern Railway case.

AMERICAN RAILWAY TRANSPORTATION SYSTEM IS NOT FINISHED

The railway transportation system of this country is not finished. There are vast undeveloped areas, particularly in the West, including Texas, which are suitable for cultivation and great industrial activity, and which can never be developed until they are penetrated and served by railroads. There are other great areas served by single lines that have not attained their possibilities industrially for the lack of additional or competitive lines that would connect such areas with additional markets and trade territories not reached by the existing lines.

The brilliant and unparalleled industrial development of America during the last century is largely due to the magnitude and efficiency of its transportation system. Cheap and rapid transportation has been and remains the most vital principle in our whole economic structure. We have no right to deny to the vast undeveloped and semideveloped areas of this country, existing principally west of the Mississippi River, the benefits of those same instrumentalities that have made transportation cheap and rapid in the well-developed areas. The eastern half of our country is well supplied with transportation facilities. The western half, constituting an empire, with boundless and innumerable natural resources, looks to the East and with one voice declares:

Millions of acres of the public domain, taken largely out of our territory, were donated by the country to induce construction of 250,000 miles of main track, principally for your service, development, and enrichment. Your dense population, your culture, and prosperity have been raised on that foundation. We, in our turn, now demand the construction of a transportation system serving the West which will accomplish in our half of the country the same results that have been obtained in the eastern half.

The justice and validity of this plea can not be denied. The interest of the entire country requires, and the sentiment of the people demands, that the unnecessary, unjust, and unwise restrictions imposed on new railroad construction by the transportation act should be very greatly modified, if not entirely repealed.

PURPOSE OF SENATE BILL NO. 750 IS TO RETURN TO SEVERAL STATES POWER TO AUTHORIZE CONSTRUCTION AS HERETOFORE WITHIN THEIR BOUNDARIES

I have introduced a bill in the Senate (S. 750) which proposes to attach to paragraph (18), section 1, of the transportation act, a proviso reading as follows:

Provided, That the foregoing provision of this paragraph shall not be construed to require such certificate of convenience and necessity

for the building or construction or operation of any new line of railroad or extension of an existing line of railroad where all of such new line or extension is within one State: *And provided further, That no such certificate for the abandonment of any line of railroad, or any portion of any line of railroad, located wholly within one State, or of the operation thereof, shall operate to relieve the carrier from also procuring such authority for such abandonment from that State as may be required by its laws.*

The effect of the proviso will be simply to leave to the commission the jurisdiction conferred by paragraph (18), section 1, over railroads that propose to construct new lines or extend old lines across State boundaries.

It is irreconcilable under our system of Government to repose in the several States exclusive power to grant charters to corporations to construct and operate railroads, each State enforcing a complete jurisprudence concerning the exercise of such power, including the right of eminent domain which the Federal Government can not confer, in the face of a Federal statute which constitutes such exercise of the very power expressly granted to the corporations by the respective States, as a crime, punishable by three years' confinement in the Federal penitentiary.

Senate bill No. 750 does not challenge the wisdom or efficacy of any part of the transportation act of 1920 except the single section which took from the several States authority to authorize new railroad construction and vested that authority exclusively in a department of the Federal Government. Those who favor this measure desire to have returned to the respective States all the power that they formerly enjoyed relative to the construction of railroads, and which they exercised with such splendid results to the commerce, progress, and prosperity of the entire country.

AS TO COOPERATION WITH STATE REGULATORY BODIES

With reference to the declaration of the commission that its practice since 1920 has been to cooperate with the regulatory bodies of the several States and to invite them to hold hearings on petitions for certificates of convenience and necessity and to request the State bodies to file with the commission their recommendations, it is respectively contended:

(1) The function which the State bodies are invited to exercise amounts to little more than that of a notary taking depositions, because the commission in about one-half of the cases, certainly those that have come from Texas, has disregarded or has not requested the recommendation of the local body.

(2) The practice merely intrusts to the State bodies detail work, which imposes heavily on their time, and which is of a nature more appropriate for handling by an examiner or other subordinate of the commission.

(3) If the commission is to continue to function under paragraph (18), it will be better for it to send its examiners to take testimony in such cases, because after the record is completed all the documents are referred to an examiner, and at every such hearing, conducted as though it were a highly complex lawsuit, it is desirable for the examiner himself, who recommends to the commission a preliminary report on the merits of the application, to hear the evidence and acquire more accurate information than reported testimony usually conveys. The practice of the commission in calling on State regulatory bodies to hear the testimony while not hearing the same itself amounts to this—that the judges who hear the case do not decide it, and the judges who decide the case do not hear it.

PROCEDURE OF COMMISSION

When the commission began to pass upon "convenience and necessity" applications, it held round-table conferences with the interested parties the same as a board of directors of a financial institution, invited to underwrite securities, confers with those proposing to issue the obligations. This procedure was more appropriate than that now pursued, but it was abandoned by the commission after the Supreme Court, in the case of *United States v. Abilene & Southern Railway Co. et al.* (265 U. S. 288), held that—

A finding without evidence is beyond the power of the commission.

Since the decision of the Supreme Court in that case, the commission, although an administrative body, has converted itself even in "convenience and certificate" cases into a quasi court, and applications for authority to construct railroads, particularly when protested, become hotly contested suits. In such cases the applicant is plaintiff, the protestant is defendant, and the subject matter is treated as though it were a suit on the part of the plaintiff to recover or take away from the defendant property in which the latter has a vested right.

The application must conform in substance to rules which have been provided by the commission. When the application

is filed, the Bureau of Finance of the commission issues to the applicant a questionnaire containing 38 questions, inquiring about every conceivable feature related to the proposals, and requiring answers that deal in utmost detail with corporate, engineering, traffic, financial, and related matters. It is asserted by those who have had experience in the circumstances that a proposal to construct 100 miles of main railroad track necessitates an expenditure of \$250 per mile, or \$25,000, to procure the sufficient data to enable one to answer the questionnaire. A few months ago the commission conducted a hearing at Plainview, Tex., upon the application of the Fort Worth & Denver Railroad to extend its line 202 miles into west Texas. In commenting upon this case the Dallas News, a leading newspaper in Texas, stated that the hearing cost \$100,000.

The commission also issues questionnaire No. 2 to all railroads in the same territory inquiring their opinion as to the proposed construction and whether they object to the proposed construction; and if so, whether they desire to be heard on their objections.

The rules allow six weeks for the return of answers to the respective questionnaires. After the answers are filed, the commission usually undertakes to arrange with the railroad or corporation commission of the State in which the proposed railroad is to be constructed to take the testimony in the case. After conference with the State body the commission sets the matter for hearing at the State capital or at some other point convenient to the parties and witnesses. In due time the parties appear with witnesses and by counsel; evidence is introduced for and against the application under rules prevailing in courts of law, so far as such rules can be applied to a matter essentially outside the scope of judicial inquiry and procedure. The evidence is reported in shorthand. Protesting railroads, like defendants in ordinary law suits, challenge substantially every fact asserted by the applicant, including estimates of volume of traffic, cost of construction standards and plans adopted for construction, matters related to topography, and resources of the territory to be intersected, as well as the benefits alleged to flow from the proposed construction.

The commission has no method of determining any controversy except the stenographers' reports of the testimony, together with exhibits filed in the case. This procedure does not include the sending of engineers to examine the topography of the territory involved, nor does it include the sending of traffic experts into the territory effected for the purpose of determining the merits of the application. If there has been a dispute between the engineers or traffic experts of the respective companies, the decision of the commission is predicated, as in a court on the preponderance of the evidence. Thus the fate of an important business enterprise may hang on the ability of a shorthand reporter to take notes and to transcribe them correctly, or it may depend at last as lawsuits often do on the oratorical ability of counsel representing the contending parties. At the conclusion of the hearing, the respective counsel secure time in which to file briefs.

The preparation of these briefs necessarily is delayed until the stenographers transcribe their notes, which sometimes requires a month or more. After the briefs have been filed, the Director of the Bureau of Finance usually assigns a legal and also an engineering examiner to study the entire record, including blue prints, profiles, estimates, and other exhibits, and to prepare a report which they recommend for adoption by division 4 of the commission. This work is likely to require several months.

When the preliminary report is completed by the examiners, copies of the report are delivered to the respective parties, who are given a stipulated time in which to file exceptions. Exceptions having been filed, the applicant is at last in a position to present his petition directly to division 4 and support it by any oral argument which he may desire to make. The docket of division 4 is always crowded and the applicant will be fortunate if his case is set for hearing within two or three months. When a specific date for oral argument has been fixed the applicant files with the docket clerk a request for time for argument, which is granted according to the apparent necessities of the case.

The procedure above described has required in recent cases more than 15 months from the date of the filing of the application to its submission to division 4. Up to the moment of submission of the case to division 4, the whole procedure has been handled by subordinates and the members of the commission themselves know nothing about the case. It is understood that they stand in a quasi judicial attitude toward the whole proposal, which forbids them to consider the merits of the application until it comes before them in a formal man-

ner when all interested parties are present or represented. The application is then presented to division 4 just as a case at law is presented to a judge on the bench. After a lapse of time amounting, in numerous instances to many months, a decision in the form of a written report is handed down by division 4 granting or refusing the certificate.

If any party to the proceeding is dissatisfied with the decision of division 4, he may thereafter file an application for a hearing of the case by the full commission, or that the case be reopened for the purpose of taking additional testimony. This application is addressed to the commission and amounts to an appeal from the decision of division 4. Any party opposing the application thus made is allowed two weeks in which to file his written objections to the granting of the application. The commission, when its labors permit, passes on the application, and the members of division 4, from whose decision the appeal was taken, participate in the decision of the commission. Further developments will depend upon the decision of the commission. If the commission unconditionally grants or refuses the certificate, that ends the case. However, if the commission grants the motion to reopen the case for the taking of additional testimony, the whole round of procedure will be pursued over again.

Mr. President, this is a perfectly impossible process for initiating business undertakings. A proposal to build a railroad is not a lawsuit and ought not to be treated as such. Persons desiring to establish national banks are required to obtain their charters under Federal authority, and the Federal Government passes on their proposals. No such difficulties, however, are encountered as those which have been built up under the transportation act in regard to proposals to construct new railroads. The delay alone as well as the expense incident to "convenience and necessity" cases is sufficient to defeat many meritorious proposals. It is wrong. An indefinite delay of justice is tantamount to a denial of justice. Conditions favorable for underwriting new railroad projects in the United States have always been periodical. Such ventures must be launched when the financial tide is coming in. If they are long held in abeyance, the tide recedes and leaves them stranded on the sands of neglect.

PERIOD FOR STARTING NEW CONSTRUCTION IS PASSING

We are now in the midst of an era of great prosperity such as usually succeeds every great war. How long it will last, no man can tell. New railroad construction ordinarily can not be financed in times of financial depression. There is a strong disposition in Texas at present on the part of a number of responsible companies and individuals to construct a large amount of additional railroad mileage in sections where it will greatly serve the public convenience and necessity. On the plains of west Texas, where in late years farming has shown remarkable results and where thousands of farms are taking the place of the great ranches of the old days, three great railroad systems—with men, money, and materials, all ready for the work—are awaiting action by the commission on their applications to extend their lines into this rapidly developing section of my State. Each of these railroads has protested the application of the other. The welfare of the people of my State demands, Mr. President, that all of these railroads be unshackled and that they be permitted to extend their old lines and build new ones wherever they will.

Applications for certificates to construct new railroad mileage in Texas alone now pending before the commission aggregate 981.11 miles and call for an expenditure of \$35,169,611. One of these applications has been pending before the commission for more than two years, and all of them as a result of the procedure above described, will in all probability remain before the commission, undecided, for a similar period of time. Any of these projects that lacks merit, whether sanctioned or refused by the commission, will die of its intrinsic weakness. Those that have the necessary financial and commercial support, by these very facts, stand approved as meritorious.

The present opportunities afforded by existing favorable financial conditions ought not to be permitted to pass, leaving these constructive proposals in my State wrecked on the reef of the Interstate Commerce Commission. The increased productivity of Texas and of the Southwest in general has in recent years attracted world-wide attention. Production is beginning to constitute a strain on transportation. There should be a safe margin. The extent and efficiency of our transportation system set a limitation on the volume of our production. In behalf of a greater progress and prosperity I plead for the removal of the artificial restrictions imposed upon further development of our transportation system by the transportation act of 1920.

Mr. President, one of the greatest evils of the times is hypocrisy in public life. If men advocated what they sincerely believed and sincerely believed what they advocated, the interest of the people would be safer and our governmental problems would be easier solved. In disposing of Senate bill 750 we will have an opportunity to carry into practice the principles of States' rights, which we have preached in season and out of season, because that measure restores to the States the right to supervise the construction of railroads wholly within their boundaries.

In behalf of this principle upon which the bill is based, let me commend to your most thoughtful consideration the words spoken not by John C. Calhoun, Jefferson Davis, Robert Toombs, Ben Hill, or Alexander Stephens, but by that cool, calculating statesman whose brilliant intellect once graced this Chamber, Elihu Root, in an address before the American Bar Association. Mr. Root said:

There will always be danger of developing our law along the lines which will break down the carefully adjusted distribution of powers between the National and State Governments, and if the process goes on, our local governments will grow weaker and the central government stronger in the control of local affairs, until local government is dominated from Washington by the votes of distant majorities, indifferent to local customs and needs. When that time comes, the freedom of adjustment, which preserves both national and local liberty in our system of government will be destroyed and the breaking up of the Union will inevitably follow.

Let us be admonished to support the measure under discussion by the words of warning and wisdom contained in the message of President Coolidge to the Sixty-ninth Congress. The President said:

The functions which the Congress are to discharge are not those of local government but of National Government. The greatest solicitude should be exercised to prevent encroachment upon the rights of the States or their various political subdivisions. Local self-government is one of our most precious possessions. It is the greatest contributing factor to the stability, liberty, and progress of the Nation. It ought not to be infringed by assault or undermined by purchase. It ought not to abdicate its power through weakness or resign its authority through favor. It does not at all follow that, because abuses exist it is the concern of the Federal Government to attempt their reform.

The Federal Government, Mr. President, owes its creation to the States. It might cease to exist, and yet the States continue to exist as before. But not so with the Federal Government in case of the destruction of the States. With the extinction of the States, the Federal Government necessarily becomes extinct. The States, however, may survive the Federal Government and form another, but it can never survive them. What may be called a Union may spring from the common ruins, but it would not be the Union of the Constitution. By whatever name it might be called, whether Union, Nation, or Kingdom, it would in reality be nothing but that deformed and hideous monster which rises from the decomposed elements of dead States and which is known by the friends of constitutional liberty as the demon of centralism, absolutism, and despotism.

The enactment of Senate bill No. 750 into law will mean the return of one of the ancient landmarks to the States, set by the fathers, which was removed by the passage of the transportation act of 1920 and will convince the people that their servants have determined to hold sacred and to preserve the principles underlying the greatest, the wisest, the happiest, and the best Government ever established by man or of which the children of men have ever dreamed.

ALUMINUM CO. OF AMERICA

Mr. WALSH. Mr. President, I ask that the Chair may lay before the Senate the unfinished business, Report No. 177.

The PRESIDING OFFICER (Mr. WILLIS in the chair). The Senator from Montana asks unanimous consent that the unfinished business be laid before the Senate. Is there objection?

There being no objection, the Senate resumed the consideration of the report (No. 177) submitted by Mr. WALSH pursuant to Senate Resolution 109, agreed to January 6, 1926, directing an inquiry by the Committee on the Judiciary as to whether due expedition has been observed by the Department of Justice in prosecuting the inquiry in the matter of the Aluminum Co. of America.

Mr. CUMMINS obtained the floor.

Mr. JONES of Washington. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll. The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Edwards	La Follette	Reed, Pa.
Bayard	Ernst	McKellar	Robinson, Ark.
Bingham	Ferris	McKinley	Sackett
Blaise	Fess	McLean	Sheppard
Bratton	Fletcher	McNary	Shipstead
Brookhart	Frazier	Mayfield	Simmons
Broussard	Glass	Means	Smith
Bruce	Goff	Metcalf	Smoot
Butler	Gooding	Moses	Stephens
Cameron	Hale	Neely	Swanson
Capper	Harrell	Norbeck	Trammell
Copeland	Harris	Nye	Tyson
Couzens	Harrison	Oddie	Walsh
Cummins	Hefflin	Overman	Weller
Curtis	Howell	Pepper	Wheeler
Dale	Jones, Wash.	Phipps	Williams
Dill	Keyes	Pittman	Willis
Edge	King	Ransdell	

Mr. HEFLIN. I wish to announce that my colleague [Mr. UNDERWOOD] is detained by illness.

Mr. JONES of Washington. I desire to announce that the Senator from Nebraska [Mr. NORRIS], the Senator from California [Mr. JOHNSON], and the Senator from Minnesota [Mr. SCHALL] are absent on account of illness.

Mr. McKINLEY. My colleague [Mr. DENEEN] is absent from the Senate on account of illness.

The VICE PRESIDENT. Seventy-one Senators having answered to their names, a quorum is present. The Senator from Iowa [Mr. CUMMINS] is entitled to the floor.

Mr. WALSH. Mr. President—

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. I yield.

Mr. WALSH. When I spoke a few days ago on the subject now before the Senate, I was interrupted by the Senator from Pennsylvania [Mr. REED], who interrogated me about some matters concerning which I promised to supply information. If the Senator from Iowa will be kind enough to yield, I shall be very glad to furnish the information at this time.

Mr. CUMMINS. I am very glad to yield for that purpose, and will take the floor after the Senator from Montana shall have completed his remarks.

Mr. WALSH. The following colloquy occurred on the occasion to which I have referred, the report of which appears on page 4206 of the RECORD:

Mr. REED of Pennsylvania. When the Senator says that this company has a monopoly in this or that, does he mean that it has possession of any facilities which prevent anybody else from going into the business?

Mr. WALSH. It has control of practically every deposit of commercial bauxite in the United States.

Mr. REED of Pennsylvania. But the Senator knows—

Mr. WALSH. A competitor in the production of crude aluminum may import crude aluminum from other countries, but there is a high tariff upon its importation, so that it is commercially impossible to enter into competition with the Aluminum Co. of America in the production of crude aluminum in this country.

Mr. REED of Pennsylvania. But the Senator knows there is no tariff on the importation of bauxite. Is that not so?

Mr. WALSH. On the importation of bauxite?

Mr. REED of Pennsylvania. Yes, sir.

Mr. WALSH. It does not make any difference whether there is or not. I am not speaking about what might happen; I am telling what the fact is.

Mr. REED of Pennsylvania. Will not the Senator yield, then, to a further question?

Mr. WALSH. Yes.

Mr. REED of Pennsylvania. Does not the Senator know that most of the bauxite which this company uses it itself imports from abroad?

Mr. WALSH. I know it imports large quantities of bauxite from abroad, chiefly from sources which it itself owns.

Mr. REED of Pennsylvania. Does not the Senator know that there is more bauxite in British Guiana and Dutch Guiana—

Mr. WALSH. Wait a moment. I must object to this line of questioning.

Mr. REED of Pennsylvania. Yes; I do not think it is fair to argue with the Senator at this point.

Mr. WALSH. The Senator can not go on and make an argument without diverting me from the course of my discussion of this matter. I am stating that the Aluminum Co. of America is the sole source in America from which manufacturers of aluminum products can secure a supply of aluminum.

Mr. REED of Pennsylvania. One more question, and I will not interrupt again. Does not the Senator know that a very large amount of German and Swiss and French aluminum is constantly being pressed for sale throughout American markets?

Mr. WALSH. Yes; and I shall demonstrate before I get through that there is a working agreement between all of them and the Aluminum Co. of America by which the Aluminum Co. of America fixes prices in America; and, besides that, it owns a controlling interest in many of these foreign sources of supply.

Mr. REED of Pennsylvania. Can the Senator name a single one in which it does own a controlling interest?

Mr. WALSH. I shall be very glad to do that.

Mr. REED of Pennsylvania. I wish the Senator would.

Mr. WALSH. But, as I say, I do not want to be diverted from my argument to discuss side issues just now.

The information upon these subjects is contained in the report of the Federal Trade Commission, to which reference has frequently been made, on pages 92 to 95, inclusive. I read briefly that portion which has reference to the particular subject to which I am now speaking:

Production and manufacturing properties: The company now owns or controls 44 subsidiary or affiliated companies engaged directly or indirectly in some branch of the aluminum industry. It is also interested in 13 other companies engaged in miscellaneous industries, some of which are connected with the aluminum industry. Chart 4, following, shows the relation of the owned and affiliated companies of the Aluminum Co. of America.

In addition to the bauxite properties held in the United States and in South America, the Aluminum Co. of America owns two companies holding bauxite deposits in Europe. Four subsidiary companies are engaged in mining bauxite, two in the United States and two in South America. The American Bauxite Co., one of the subsidiaries, mines all of the bauxite produced in the United States which enters into the production of aluminum. The Aluminum Ore Co. operates the refining plant at East St. Louis, Ill., and produces all of the alumina produced in the United States used in the production of aluminum. The parent company and two subsidiaries operate four reduction plants producing aluminum from alumina. These plants are located at Niagara Falls, N. Y., Massena, N. Y., Badin, N. C., and Alcoa, Tenn. It also has a smelting plant at Toronto, Canada.

The Aluminum Co. of America has eight subsidiary or affiliated companies manufacturing finished aluminum goods. Three of these, the United States Aluminum Co., the Aluminum Goods Manufacturing Co., and the Northern Aluminum Co. (Ltd.), manufacture aluminum cooking utensils. The latter company operates in Canada, while the first two, according to data furnished the Aluminum Wares Association, manufacture about 65 per cent of the aluminum cooking utensils produced in the United States. Each of the three companies operates rolling mills. The Aluminum Goods Manufacturing Co. and Northern Aluminum Co. roll sheet for their own consumption, while the United States Aluminum Co. rolls sheet not only for its own utensil factory, but also for sale to independent utensil manufacturers.

The parent company owns or controls two domestic and five foreign sales organizations handling the sale of finished aluminum products. The parent company and its subsidiary, the St. Lawrence Securities Co., own a number of power companies and other public utility companies, the primary object of which is the production and transmission of power for the company's aluminum works. The company owns four railroads operating short lines connecting its mines and plants with other railroads to facilitate the shipment of its ores and semi-finished products.

Absorption of the Aluminum Rolling Mill Co.: The Cleveland Metal Products Co., a manufacturer of various products, planned to erect a rolling mill to insure an adequate supply of sheet aluminum for the purpose of embarking in the aluminum cooking utensil business. The company ascertained from foreign producers that an adequate supply of aluminum ingots could be obtained from them, and in 1915 the rolling mill was completed and put into operation. Shortly after the beginning of the World War importations of foreign aluminum ceased and the Cleveland Metal Products Co. commenced purchasing ingots from the Aluminum Co. of America. In 1918 the Cleveland Metal Products Co. faced financial difficulties because it was obligated by contract with the Aluminum Co. of America for the purchase of a larger quantity of aluminum ingots than it could profitably use in its rolling mill. It sought, therefore, to cancel this obligation, but the Aluminum Co. of America would not agree to permit it. After several conferences, the Aluminum Co. of America and the Cleveland Metal Products Co. organized, in 1918, a third company known as the Aluminum Rolling Mill Co., with a paid-up capital of \$800,000, to purchase the rolling mill from the Cleveland Metal Products Co. The Cleveland Metal Products Co. became the owner of one-third and the Aluminum Co. of America of two-thirds of this stock.

In 1918 the commission began an inquiry into the circumstances of the formation of the Aluminum Rolling Mill Co., and in February, 1919, initiated proceedings against the Aluminum Co. of America. As a result of these proceedings, in March, 1921, the commission ordered the Aluminum Co. of America to divest itself of its stockholdings in the Aluminum Rolling Mill Co. because of the violation of section 7 of the Clayton Act, which prohibits, under certain conditions, the acquisition

by one company of the capital stock of a competing company. The Aluminum Co. of America filed a petition in the United States Circuit Court of Appeals for the Third Circuit for a review of the commission's order, but on June 1, 1922, the court sustained the order of the commission and directed the Aluminum Co. of America to dispose of its two-thirds interest in the Aluminum Rolling Mill Co.

The Aluminum Co. of America then sought to obtain the consent of the commission and of the court to a modification of the order so as to permit the Aluminum Co., or one of its subsidiaries, to purchase the physical assets of the Aluminum Rolling Mill Co. at a dissolution sale. The commission opposed such modification of the order, and this proposal was rejected by the circuit court of appeals. On August 13, 1923, the Aluminum Co. of America complied with the order of the circuit court of appeals and sold to the Cleveland Metal Products Co. the capital stock which it owned in the Aluminum Rolling Mill Co.

Subsequently, however, the Aluminum Co. of America expressed its intention to purchase the physical assets of the Aluminum Rolling Mill Co. at an execution sale. The commission sought to prevent this device for combining the two companies by applying to the circuit court of appeals for a modification of its order which would enjoin this transaction also, but the court denied the commission's petition in an opinion rendered on June 24, 1924, on the ground that the commission had not proved that the indebtedness of the Aluminum Rolling Mill Co. to the Aluminum Co., the basis of the proposed execution sale, was fraudulent.

Along the same line I read from the Digges's report, to which reference was made on Thursday last, as follows:

The Aluminum Co. has not confined its operations to the domestic field. On the world horizon it looms up as the most important factor to be reckoned with in the supply of aluminum. Its foreign holdings are extensive. In 1922 it acquired in Norway a 50 per cent stock interest in the Norsk Aluminum Co., which controls the waterfalls at Hoyangfadene, in Sogn, Norway, said to be one of the world's cheapest producing companies. The falls controlled at Hoyangfadene have a total power of over 80,000 horsepower, of which 30,000 horsepower were developed in 1921; i. e., prior to the stock purchased by the Aluminum Co. The aluminum factory operated by the Norsk Co. has a producing capacity of approximately 7,000 tons of aluminum per year. The production of the Norsk Co. in 1923 was about 14,000,000 pounds, about the same time the Aluminum Co. also purchased a one-third interest in the Norske Nitrid Co., another Norwegian corporation. The attractiveness of these two corporate companies lay in the fact that they represented cheap water power and were said to be the cheapest producing companies in the world. In Canada it is found that the Northern Aluminum Co. (Ltd.) is entirely owned by the Aluminum Co. of America. This company has a producing capacity of 20,000,000 pounds of aluminum per year.

Turning now to the bauxite properties of the Aluminum Co., it is found that the Aluminum Co. owns extensive bauxite mines in British Guiana and Dutch Guiana. In the year 1923 it imported into the United States from its British Guiana mines 68,000 pounds of bauxite. An important French company, Bauxites du Midi, is owned 100 per cent by the Aluminum Co. A Yugoslavian company, Jadranski Bauxit Dionico Drus' tvo, is 95 per cent owned by the Aluminum Co. of America.

In this connection it is interesting to note an article in the July 12, 1924, issue of Engineering and Mining Journal-Press by Lloyd T. Emory, consulting engineer of Philadelphia, Pa., and formerly an engineer in the employ of the Aluminum Co. of America. Mr. Emory states in substance that prior to the World War the two chief bauxite producing areas of the world were Arkansas and an area in southern France; that in 1913 the Aluminum Co. of America became alarmed because of the rapidity with which the Arkansas field was being depleted and began to look for new sources of supply; that in 1915 it received a report that extensive deposits of this mineral had been found in Dutch Guiana, and at once dispatched field men to the scene of action. G. C. Rudell, of the Minerals Division, Foreign and Domestic Commerce, Department of Commerce, is authority for the statement that a subsidiary corporation of the Aluminum Co. of America now controls approximately 95 per cent of the bauxite in Dutch Guiana.

The situation in British Guiana is approximately the same. The Demerara Bauxite Co. (Ltd.), of British Guiana, is a subsidiary company of the Aluminum Co. of America. Messrs. Mackenzie and King, for the Demerara Co., acquired some 20,000 acres of land, which contained all of the commercial bauxite known to exist in that country, except Aurora and lower Senerie, on leases from the Government. The leases as finally secured were made in the name of the Northern Aluminum Co. of Canada, ostensibly a British concern and within the jurisdiction of the Canadian courts. When the Demerara Bauxite Co. was incorporated in British Guiana in 1916 the leases were transferred to it. Mr. Emory, above referred to, is authority for the statement that the Aluminum Co. probably owns or controls through its subsidiaries between 90 and 95 per cent of the known bauxite ore in British Guiana and possibly 98 per cent of the ore in Dutch Guiana. These fields are known to be very important factors in the world supply of aluminum.

The facts just stated show that where commercial bauxite appears the Aluminum Co. of America is quick to avail itself of property rights in this bauxite, either through lease or by purchase. They now have an iron grip on the American situation and likewise on the South American situation. Just how far it controls the European supply is conjectural; though if Emory is correct in his premise, it plays an important part in the situation in southern France.

Mr. REED of Pennsylvania. Mr. President, will the Senator tell us from what he is reading?

Mr. WALSH. I am reading from the Digges's report. Mr. Digges's information is gathered largely from an article in the Engineering and Mining Journal by Lloyd C. Emory, consulting engineer, of Philadelphia, an engineer formerly in the employ of the Aluminum Co. of America, and I dare say he knows what he is talking about.

Mr. REED of Pennsylvania. If he does, his statements are exactly at variance from those made by the company itself.

Mr. WALSH. That is possible.

Mr. REED of Pennsylvania. I am told by the company itself that it has no interest whatsoever in any German, French, British, or Swiss company. Mr. Emory seems to think that it has.

Mr. WALSH. I continue the reading:

As indicative of the fact that Mr. Emory is correct, it will be recalled that the largest foreign bauxite holdings of the Aluminum Co. are precisely in the regions named by him, i. e., France, British Guiana, and Dutch Guiana, likewise Yugoslavia. This morning I called the Bureau of Minerals of the Department of Commerce regarding imports of bauxite and found that the largest imports were coming from Dutch Guiana, British Guiana, Yugoslavia, and France. The annual imports from Germany, England, Italy, Malta, the West Indies, Rumania, British India, Argentina, and Brazil do not equal in quantity the average monthly importation from British Guiana. The figures show that by far the largest amount is imported from British Guiana, the second largest amount from Dutch Guiana, the third largest amount from France, and the fourth largest amount from Yugoslavia. Although it is not known what the competitive conditions are in these various countries, it seems pertinent to point out that 95 per cent of a Yugoslavian corporation mining bauxite is owned by the Aluminum Co., 100 per cent of a French company mining bauxite is owned by the Aluminum Co., and it has been estimated that the South American supply is approximately 95 per cent controlled by the Aluminum Co. The figures for these importations are approximately as follows:

This is 1924, a circumstance to which I shall refer again directly.

	Tons
British Guiana	128,500
Dutch Guiana	45,500
France	11,000
Yugoslavia	3,850
Brazil	207
Germany	0
England	2
Italy	1,430
West Indies	1,700

As evidence of the tenacity with which the Aluminum Co. seeks to continue its control of sources of supply, an extremely interesting case was adjudicated in British Guiana some years ago, which involved some rather extraordinary considerations. Briefly, the situation was this: Mr. Emory, above referred to, resigned his position with the Aluminum Co. during the war for the purpose of making himself available for war work and came back to the United States. After being demobilized, however, he returned to South America in the interest of parties adverse to the Aluminum Co. and negotiated for the purchase of land owned by a Mrs. Hubbard. This land comprised 1,500 acres of bauxite ore and was wedged in between holdings of the Demerara Bauxite Co. Mr. Emory approached counsel for Mrs. Hubbard, a Mr. Humphreys, who was likewise proxy director in the Demerara Bauxite Co., for the purpose of securing an option for the purchase of the land in question. This attorney offered to carry through the proposition and figured also to make a substantial profit for himself. He therefore obtained an option on the land for \$5,500 and jockeyed the interests of Emory against the interests of the Demerara Co. until the price offered by the Demerara Co. was raised to \$12,200 and the price offered by Emory to \$12,000. The trial court gave judgment and title to Emory, holding that because of the confidential relation of attorney and client the transaction as to the Demerara Co. was void. Title was then passed to Emory or the parties in privity with Emory. The Demerara Co. was not satisfied, however, and the case was successively appealed to the appellate court of Guiana, the West Indian Court of Appeals, and the privy council in London. Emory now states that the Demerara Co. is trying to shift its property lines so as to cut him out of some of his bauxite property, and that more than likely the Demerara Co. will start another suit involving the boundary lines. Emory states that the general policy of the Aluminum Co. seems to be to wear out their competitors with lawsuits, and that this apparently is what is being attempted in the present instance.

Just what the foreign situation it is difficult to state. With regard to that situation we know: (1) That the Aluminum Co. of America owns or has a substantial interest in the two cheapest producing companies in Europe; (2) that foreign producers of aluminum meet currently for the purpose of fixing prices in countries other than the United States; (3) that the Aluminum Co. has on occasion undersold foreign producers in their own market; (4) that the British and Swiss companies were investigated early in last year for alleged violations of the American antidumping act. My opinion is that the situation is as follows: The Aluminum Co. as such possibly does not enter into foreign agreements touching on the fixation of prices. However, I believe that the Aluminum Co., through its Canadian subsidiary, must be represented at these meetings. If this is true, then the price is fixed in respect of all countries other than the United States. The Aluminum Co. then may use its Norwegian companies as a Damoclean sword to hold the foreign companies in line. If they cut the price, the Aluminum Co. probably goes into their domestic market and slices prices to such ridiculous figures that the foreign companies are forced back into line.

In this connection it appears that in 1913 the Northern Aluminum Co. (the Canadian subsidiary of the Aluminum Co. of America) was a member of the European price-fixing combination (par. 172, Schedule C, tariff hearings before Committee on Ways and Means, 62d Cong., 3d sess., 1913). Private experts have reported that in England and Belgium the Aluminum Co. has sold at extremely low prices on at least two occasions for the purpose of lining up recalcitrant companies who were underselling the Aluminum Co. in the United States. Other experts have contended that there was an agreement between the American corporation and the foreign producers for an "allocation of customers." If the statements above are correct, and it is earnestly believed that they are correct, then the Aluminum Co. of America can control the imports into the United States and can also protect the domestic price. The two importers who were investigated under the antidumping act last year, because they wished to sell at 1 cent per pound under the prevailing domestic price, were thoroughly frightened because this matter came under the jurisdiction of the Treasury Department, and it is to be presumed that the price cutting has ceased, although in the particular instances no formal action was taken against the companies.

Further along the same line I offer now two articles appearing in the Mining Journal, one in the issue of January 30, 1926, and the other in the issue of February 6, 1926. I read from the first a part thereof as follows. It is entitled "The high price of aluminum," by Robert J. Anderson, bachelor of science, doctor of science, and master of engineering. I read:

[From the Mining Journal, January 30, 1926]

THE HIGH PRICE OF ALUMINUM

(By Robert J. Anderson, B. Sc., Met. E., D. Sc., consulting metallurgical engineer, Cleveland, Ohio, United States of America)

In the December 5, 1925, issue of the Mining Journal the high price of aluminum is discussed editorially. The treatment of the situation was eminently fair—if not too fair. That the selling price of aluminum to the consumer is too high, entirely out of relation to the cost of production, and exceedingly deleterious to the welfare of the aluminum industry, is generally admitted by everyone with any knowledge of the situation, barring aluminum producers and Republican legislators in the United States Congress. A survey of the aluminum industry proves, or at any rate argues very cogently, that aluminum will remain at an exorbitantly high price until there is competition in aluminum reduction in the United States. Another factor which is capable of reducing the world price of aluminum is reduction of the American import duty; this is quite far-fetched and altogether out of the realm of possibility under the present administration unless the Aluminum Co. of America requires a reduction. American consumers of aluminum have been sorely harassed for many years by unnecessarily high prices for the metal and have been subjected to sharp trade practices at the hands of the Aluminum Co. of America. The high import duty on aluminum and manufactures thereof brought into the United States has not only been ruinous to the independent founders and fabricators but has been injurious to foreign producers and consumers. The Aluminum Co. of America takes advantage of the tariff by selling at high prices in the United States and cheaply in foreign markets. When all the evidence is weighed it is found that the aluminum situation, in so far as injurious effects are traceable, is entirely without parallel in the history of the world's metal industry.

In the present short article the reasons for the high price of aluminum will be considered—particularly from the point of view of the American consumer. The position of the American consumer of the metal and that of the independent founder and fabricator is distinctly different from that of the British or continental consumer. In the United States the consumer is dominated by the Aluminum Co. of America, and is hindered in his operations at every turn by the trade practices of this concern. Moreover, he is dependent for his supply of aluminum pig or semimanufactured forms of metal upon the pleasure of the Aluminum Co. The supply of aluminum in the United States is by no means equal to the demand, notwith-

standing considerable importations from abroad, but the Aluminum Co. of America will neither supply the demand nor permit lowering of the tariff, so that an adequate volume of metal can flow into the country.

The American consumer has been engaged for many years in a long and bitter trade and legislative struggle with the Aluminum Co. of America for lower prices on pig and semimanufactured metal, for the elimination of the import duty, and for a fair deal. So far he has been unsuccessful, and the indications are that no improvement in the general situation can be expected. The self-appointed champions of the American aluminum consumers have been certain Democratic legislators in Congress, whose interest in the situation is purely partisan and for political purposes. While the information detailed in the present article is well known to all American consumers of aluminum, the student of economics would be amazed to learn the facts surrounding the industry. A review of the situation may be of interest also to metal men in general.

The present American price for primary aluminum pig (98-99 per cent grade) is 27 cents per pound f. o. b. works. Let us examine the facts now, and see if there is any reasonable justification for this price. It will also be of interest to detail the trade practices of the Aluminum Co. of America as experienced by the domestic aluminum consumer and as established by the Federal Trade Commission, and see what the consumer has to complain about in addition to high price. It may be added parenthetically that the great majority of the independent founders and fabricators in the United States are powerless to defend themselves before the legislators for fear of further antagonizing the Aluminum Co. of America. This company is in a position that it can absolutely hamper, if not actually prevent, the fabrication or casting of aluminum by any company who might oppose the will of the Aluminum Co.

COMMERCIAL AND POLITICAL CONTROL OF THE WORLD'S ALUMINUM INDUSTRY

The world's aluminum industry is controlled by five great groups of producers—viz, (1) the American—i. e., the Aluminum Co. of America, which owns all the reduction plants in the United States and Canada and a plant in Norway; (2) the French—i. e., L'Aluminium Française, which is a holding company controlling most of the reduction plants in France, those in Italy, and operates two in Norway; (3) the Swiss—i. e., Aluminium Industrie Aktien Gesellschaft, which owns the reduction works in Switzerland, one in France, and one in Germany; (4) the German, which are state-owned and control the production in Germany and Austria; and (5) the British—i. e., the British Aluminium Co. (Ltd.), which controls the production in the British Isles and operates works in Norway, and the Aluminium Corporation (Ltd.), operates a reduction works in Wales, having small output. The dominant factor in the world's aluminum industry is the Aluminum Co. of America, controlled by Andrew W. Mellon, Secretary of the Treasury of the United States. The other main producers appear to be constrained to follow the policy of this company, particularly as regards price of pig metal, whether they will or no. Naturally, it is to the advantage of immediate profits to sell at as high a price as possible.

All of the aluminum producing firms either own or control extensive deposits of bauxite, hydroelectric power plants, carbonelectrode factories, alumina preparation plants, aluminum reduction works, fabricating plants, and foundries. They make all kinds of manufactured and fabricated articles in aluminum and aluminum alloys. Naturally, there is nothing reprehensible in all this, per se. But the general attitude of the aluminum producing firms, with conspicuous exceptions, is that it is their divine right to produce aluminum, and that any concern contemplating entering the business is an obnoxious trespasser. They also take the attitude that it is their exclusive right to do all the alloy casting work, rolling, fabricating, stamping, and to engage in all other branches of the industry. In short, anyone who does not produce aluminum is persona non grata in the business, yet they insist that there shall be no new competition in aluminum reduction, and fight tooth and nail to prevent potential competition. The producers in 1912 even went so far as to enter into a contract to fix the world prices of aluminum—the famous "international aluminum agreement." The aluminum producers by and large appear to be believers in the extraordinary doctrine that the law of supply and demand can not conceivably be applicable to the aluminum business.

RELATION OF SELLING PRICE AND THE TARIFF

The present duty on aluminum pig (scrap and alloys) imported into the United States is 5 cents per pound, while that on sheet, plates, coils, bars, rods, and related manufacture is 9 cents. These rates were fixed in 1922 under the Fordney-McCumber law. Under the Underwood-Simmons Act the duties were 2 cents and 3½ cents, respectively (Democratic administration). Under the Payne-Aldrich Act the duties were 7 cents and 11 cents. The import duty on aluminum is a typical example of political logrolling, and finds no basis for its existence either from the point of view of protection to the industry or of revenue. The sum and substance of the reason for the domestic import duty is that the Aluminum Co. of America, although in com-

plete control of the entire industry on the American continent, must needs further ensure its already complete control by preventing what little competition there is from abroad by a high and prohibitive rate of duty. The duty explains in part the high price of aluminum to the American consumer. Investigation of the colored statements of the Aluminum Co., taken from debates on the tariff in previous years, shows that the plea of the Aluminum Co. for protection against "ruinous foreign competition" is not borne out by the actual facts regarding competitive costs of production or volumes of output in the United States and abroad.

The arguments of the Aluminum Co. of America in support of a substantial import duty on aluminum are so fallacious as to be ridiculous were they not so dangerous in their effects on the legislators. The Aluminum Co. argues, for example, that a high duty on aluminum coming into the United States means a low price to the consumer. The reasoning by which this confounding conclusion is arrived at is based on the premise that with aluminum on the free list the works of the Aluminum Co. would have to shut down in the face of cheap foreign metal, and that then, with the Aluminum Co. ruined, the foreigners would raise the price to unbelievable heights. This silly reasoning vanishes in the face of the facts, which are that the foreign producers have no great exportable surplus, that their costs of production are substantially the same as the American, and that the present consumption of the United States is in excess of 300,000,000 pounds per annum, even with aluminum at 27 and 28 cents per pound. The history of the American aluminum tariff shows that this legislative enactment has been of great harm to the independent aluminum consumer and of highly dubious value, even to the Aluminum Co. of America. The Aluminum Co. also argues that the tariff has no effect upon prices. The obvious question to this is: "Why should the Aluminum Co. ask for a tariff?" The answer is that an import duty offers an excuse for the raising of prices—usually out of all proportion to the duty—thereby swelling profits and raising a barrier against foreign metal.

The subjoined figures give the average open market prices for primary aluminum pig in the United States under the different import rates since 1890:

Average price 1890-1894, under 15-cent tariff, 98 cents.
Average price 1895-1897, under 10-cent tariff, 31 cents.
Average price 1898-1909, under 8-cent tariff, 29 cents.
Average price 1910-1913, under 7-cent tariff, 22 cents.
Average price 1914-1921, under 2-cent tariff, 35 cents.
Average price 1922-1925, under 5-cent tariff, 25 cents.

The prices are in round figures and refer to the American market. It is of interest to analyze these prices in relation to the tariff, and see what is found, remembering that the Aluminum Co. alleges that the tariff has no effect on prices. Going back to 1890, the industry was just getting under way, the price of metal in 1890 being \$2.28 per pound, and the import duty 15 cents per pound under the tariff act of that year. By 1894 the price had fallen to 45 cents per pound. Production was up to this time insignificant. Under the tariff law of 1894 the import duty was 10 cents per pound, and the price of metal fell to 28 cents per pound in 1897. It will be noticed that the price in that year was the same as in 1925, although the industry was staggering under heavy development burdens in 1897, and the total production in the United States was only 4,000,000 pounds, as against 200,000,000 pounds in 1925. Is it possible that production costs in 1925, with an output fifty times that in 1897, are at the same as in 1897? A general dictum of production practice is that the greater the volume of production the lower the cost. It would seem that this applies to metal production in general, barring aluminum. Under the tariff act of 1897 the import duty was 8 cents, and the average price of aluminum was 29 cents per pound over the following 12 years. The differential in the import duty acts of 1894 and 1897 was 2 cents per pound, while that in the sales price of the metal during the years these respective acts were in force was 2 cents per pound. The duty under the act of 1909 was 7 cents per pound, and the average price over the period 1910-1913 was 22 cents per pound. The low price reached up to 1913 was 20 cents per pound in 1911. The generally low prices for aluminum during this period are not ascribable to the tariff, as the Aluminum Co. would like to have us believe, but due to overproduction and poor industrial conditions. Under the law of 1913 the duty was reduced to 2 cents per pound, and the average price of metal in 1914 was 19 cents per pound. There apparently seems to be some relation between aluminum prices and the tariff, and this relation is that the lower the tariff the lower the price. The 2-cent duty was in force during the eight years of the Wilson administration, viz, from 1914 to 1922. The average market price during this period was 35 cents per pound, as based on open-market prices. During the war aluminum sold up as high as 67 cents per pound, as reported in the markets, although consumers under contract by the Aluminum Co. are said to have obtained metal at much lower prices. Figuring the averages of the contract prices for 1915, 1916, and 1917 (being 32, 34, and 37 cents per pound, respectively), the average price of metal over the period 1914-1921 was 30 cents per pound. This very high price in the face of a low

tariff is readily accounted for by the fact that during all the war years the imports of aluminum into the United States were negligible, demand for the metal was very high, and the Aluminum Co. of America dominated the situation completely. Naturally prices of aluminum rose along with other commodities. In 1918 the United States Government fixed price of aluminum pig was 33 cents per pound. Under the tariff law of 1922 the duty was raised to 5 cents per pound. In 1922 the average open-market price of aluminum was 20 cents per pound, while in 1923, and immediately after the tariff law went into effect, it rose to 25 cents per pound. In 1924 the average price was 28 cents per pound, while in 1925 it was nearly 20 cents per pound. The only conclusion that the aluminum consumer can arrive at from these figures is that the higher the duty on aluminum the higher the market price.

RELATION OF SELLING PRICE AND PRODUCTION COST

Irrespective of the tariff, the consumer of aluminum, whether in the United States or elsewhere, is fully justified in asking whether the current price of aluminum is warranted. It is the mature conclusion of students of the industry that the price is neither warranted nor desirable. Aluminum is the lightest of the commercial metals which are used in large quantity, and certain of its alloys are most desirable for a wide variety of purposes in engineering construction. At the present time, as in the past, neither the metal nor its alloys can be used for many purposes where engineering data indicate that they logically should be employed from the technical point of view, because of the excessively high price. Moreover, there is a positive discrimination on the part of the American producer to encourage the trial of aluminum alloys for many logical purposes, and in numerous cases the company has refused to exhibit any interest in proposals for new applications by various interests.

That the high price of the metal is the main restrictive factor in the more widespread use of aluminum and its light alloys is plainly shown by the attitude of the American automotive industry and that of the general engineering trades in the United States, as well as by the annual output of metal. The use of aluminum in the American motor car has been steadily falling off for a number of years, and American makers are far behind the European in the employment of the metal and its light alloys in automotive construction. In 1920 the average amount of metal used in the American motor car, excluding Fords, was 120 pounds, and in that year the consumption of aluminum by the automotive industry was about 120,000,000 pounds, or 60 per cent of the total United States production of primary metal. In certain types of cars as much as 250 pounds of metal were employed. Domestic motor vehicle production in 1920 was about 1,000,000 cars and trucks, exclusive of Fords. In 1925 the average amount of metal used per car was only 40 pounds, with about 2,500,000 cars and trucks built, exclusive of Fords, in which aluminum was used. The total amount of aluminum consumed to-day by the automotive industry is no more, and probably less, than the total taken five years ago. Even in some of the higher grade cars cast-iron crank cases are being used instead of aluminum-alloy cases. A high tariff on aluminum can have one of two effects in the American automotive industry: (1) It can mean higher-priced motor cars, because of the higher cost of aluminum; or (2) it can mean a lessening of the use of aluminum and aluminum-alloy parts, thereby decreasing the efficiency and quality of the American motor car. The domestic motor-car manufacturers have come to the conclusion by and large that they must cut down on the use of aluminum. The explanation offered by the leading companies is that the metal is too costly, despite its advantages, and that sources of supply are too uncertain in the face of the large excess of demand over supply, that they can not take the chance of being cut off in the midst of production. With the high import duty on aluminum, uncertainty as to source of supply, and the present competition in the domestic automotive industry, it is difficult to believe that the industry will, in the immediate future, absorb much more metal than it does at present. The American automotive industry could easily consume 600,000,000 pounds of aluminum per annum at a reasonable price.

PRODUCTION COST

That the selling price of aluminum pig bears no relation whatsoever to the cost of production has long been suspected by the aluminum consumer and others. That the selling price is in no way dependent upon production costs is a matter of actual fact. When commodity producers in the United States seek to obtain a protective tariff in order to offset lower wage rates, lower power costs, or other lower operating factors in foreign countries, they normally base their demands for a duty on their relative production costs as compared with their foreign competitors. Not so the Aluminum Co. of America. In all the debates on the aluminum tariff before Congress no inkling has ever been disclosed as to the aluminum production costs of the Aluminum Co. Its extreme reticence as to disclosing costs can only be interpreted to prove that its costs are not out of line with foreign production costs, and that disclosure of the actual costs would quickly show that the selling price of the metal is far too high. The cost of producing aluminum can be roughly calculated with sufficient accuracy for all practical purposes to

show why the Aluminum Co. of America in the past 10 years has never made less than \$10,000,000 per annum on a capital stock of about \$18,000,000, and why the equity value of that stock is in excess of \$110,000,000—all this on an original investment of \$20,000. It should be stated parenthetically that there is nothing reprehensible per se in running a \$20,000 shoestring to over \$110,000,000, but a company capable of this financial success is certainly not in need of protection from competition.

Turning to the matter of aluminum reduction costs, this can not be much in excess of 12 cents per pound under the worst conditions. The Aluminum Co. of America in its briefs filed in connection with the aluminum tariff and in public statements alleges that the labor item makes up 90 per cent of the production cost. This allegation is so absurdly ridiculous that if taken at its face value it would mean that the production cost of aluminum would be in excess of the present selling price, to accommodate such a relation of the labor item to the total production cost. The facts in the case are that the total labor cost is not over 10 per cent of the production cost starting with the mining of bauxite, and the labor cost in the production of aluminum from alumina is 5 to 6 per cent of the total cost.

Calculations for the production cost of aluminum have been made many times by those competent in the business. Thus Debar gives the cost for German practice as about 16 cents per pound, including interest and investment and amortization of plant. Clacker, of the British Aluminum Co. (Ltd.), has quoted the figure of 12 cents, Collet has given 8.6 cents for Norwegian practice, Nissen has given 12 cents for European practice in general, and Lodin has quoted 11 cents per pound. Calculations by the writer for American practice show 13 + cents, which is amply high.

High-grade bauxite, with 56 to 62 per cent Al_2O_3 , sells in the open market for \$4 to \$8 per ton, depending on the grade and the nature and percentage of the impurities. The actual cost to the aluminum producer who owns his own bauxite deposits and mines his own ore is naturally less. Taking good bauxite at \$5 per ton and figuring 4 tons of ore to make 1 ton of aluminum, the cost for ore is \$20 per ton, or about 1 cent per pound, as against the selling price of 27 cents for the metal. The total cost of making pure alumina is from 1 to 3 cents per pound, depending upon the quality of bauxite used and the volume of ore treated. In the United States it runs about 1½ cents per pound. Electrodes are worth 2 to 3 cents per pound, and about 0.8 pound of electrode is consumed per pound of aluminum produced. The power cost is about 1.5 to 2.5 cents per pound. Detailed figures need not be given in the present instance, but sufficient is known about costs to demonstrate clearly that with an average cost of even 12 cents, and figuring overhead at 5 per cent on the total cost per pound, a selling price of 27 cents is far out of line with a fair profit. The process of manufacturing aluminum is relatively simple, as everyone who has any knowledge of the metallurgy of the metal is aware, and as anybody who will take the trouble to investigate the matter will find out. The only conclusion that the aluminum consumer can arrive at is that the sales price is high in order to insure exorbitantly high profits to the producer, and that the reason why there is not competition in the aluminum-producing end on the American Continent is because potentially possible competitors are restrained and intimidated by the position of the Aluminum Co. of America.

In 1924 the bulk of the world's copper production was turned out by 29 companies, at an average price of 10.4 cents per pound, or only 1 cent per pound above pre-war costs. The average selling price of copper in 1924 was 13.02 cents per pound. Of these 29 companies 19 paid dividends. Between 1845 and 1923 the United States copper producers enjoyed an average sales price of 16.95 cents per pound, and during these years they paid an average dividend of 4.25 cents per pound—i. e., they distributed 25 per cent of their gross income as dividends. The aluminum consumer would like to know how it comes that the aluminum producer must have a differential between the cost of production and the selling price of as much as say 15 cents per pound on the average, in the light of the history of the copper industry.

RELATION OF OUTPUT AND PRICE

The output of aluminum bears no relation to the price paid by the consumer, as the statistics of the industry clearly show. As mentioned above, the domestic production in 1897 was only 4,000,000 pounds, and the price was 28 cents per pound. In 1925 the output was about 200,000,000 pounds, and the price was also 28 cents per pound. In 1914 the American price reached a low of 19 cents per pound; the output was 90,000,000 pounds. In 1922 the price was 20 cents per pound, and the output was 114,640,000 pounds. In 1911 the price was also 20 cents per pound, and the output was 28,600,000 pounds. In 1918, the peak year, the output was 225,000,000 pounds, and the price was fixed at 33 cents. In 1913, the year generally used now as an index of pre-war conditions, the average price of copper was a shade over 15 cents per pound; that of aluminum was 21 cents. Copper rose to 31 cents in the United States during the war; aluminum to 67 cents and more. The present price of copper is 14.5 cents per pound; that of aluminum is 27 cents.

It has been suggested by some that the price of aluminum would be lower if the output were greater, and comparison has been drawn be-

tween the total production of copper and that of aluminum as indicating greater stability in the copper industry and the reason why consumers specify copper and cuprous-alloy parts in preference to aluminum and its alloys. There is something to be said for the latter comparison, in that it is one of the reasons why aluminum cable has not more extensively replaced copper for transmission purposes, and why large consumers hesitate to change to aluminum from copper—in short, they are fearful that the supply is not large enough. The answer as to why the price of aluminum is so high and the output so relatively small is that both price and production are controlled by the dictates of the Aluminum Co. of America. The policy of this company is, according to all the information that can be obtained and reasoning from what can be seen of its acts in the trade, to standardize output and regulate prices so as to obtain the maximum profit. This is certainly contrary to the general policy of American metal producers, that large profits come with large volume. The general policy of commodity producers in this country is to develop consumption by enlarging and cheapening production, which is a sound policy, greatly to the advantage of both producer and consumer alike, has been shown in the copper, steel, lead, zinc, rubber, automobile, moving picture, foodstuffs, and other basic industries.

The mature conclusion reached by the student of the aluminum industry and by consumers is that the policy adopted by the Aluminum Co. of America is detrimental to the company itself, and has reacted most unfavorably upon the industry as a whole. Aluminum producers by and large have been noted for their secrecy regarding processes, statistics, output, costs, and the general run of their businesses. This policy has been a greatly destructive factor in the progress of the industry. The free interchange of ideas as to manufacturing methods and technical practice, which is a prime necessity to advances, has been completely shut off. The method used for reducing aluminum is the same to-day as it was in 1886. The great bulk of the progress in the technical and scientific end has come through the work of investigators not employed by aluminum producing companies. In this connection a noteworthy case may be cited in the alloy developments brought out at the National Physical Laboratory.

Any industry is entitled to remain as secretive as to manufacturing methods as it sees fit, but no industry has a right to withhold important statistics as to costs, output, and other data desired by Government agencies. The Aluminum Co. of America, for example, sees fit to give out no information at all, but, on the other hand, it goes before the legislators and asks kind consideration in the matter of tariffs, water rights, and other favors. The question naturally arises: "Why be so secretive if there is nothing to conceal?"

It has been suggested that a greatly enhanced output of aluminum might not find a ready market even at a much lower price, and hence the producers of the metal wisely keep the output at a low level. A much larger output than that at present would probably not find a ready market at the current price, but with the present actual demand the producers could figure on a 100 per cent increase in consumption at 20 cents per pound. The writer is of the opinion that with aluminum at 15 cents per pound the world could easily absorb 2,000,000,000 pounds per annum.

THE ALUMINUM CO. OF AMERICA AND THE FEDERAL TRADE COMMISSION

For many years the Federal Trade Commission has been diligently investigating the trade practices of the Aluminum Co. of America, as well as numerous other domestic companies. In 1912 the courts found that the trade practices of the Aluminum Co. were in violation of the antitrust laws, and the Aluminum Co. was warned to discontinue these practices, which it promised to do. That the Aluminum Co. has continued to do just about as it pleases, irrespective of the trade laws, is the experience of the Federal Trade Commission, the domestic aluminum consumers, foreign producers, and the present writer. The most distinguished contribution of the Federal Trade Commission to the enlightenment of the general public on the aluminum situation is contained in its report on the House Furnishing Industry, Volume III, Kitchen Furnishing and Domestic Appliances, dated October 6, 1924. The aluminum clinic conducted for a number of years by the commission charges substantially as follows regarding the trade practices of the Aluminum Co. of America:

- (1) Cancellation of customers' orders without warning or cause.
- (2) Refusal to promise shipments after taking orders.
- (3) Unreasonable delays in deliveries.
- (4) In the case of sheet consumers making fabricated articles, where there are orders for several gauges of sheet necessary to finish a given manufacture, one or two gauges are delivered and the others held back so that the work can not be processed to completion.
- (5) After deliveries of metal have been unreasonably delayed, large quantities are dumped on customers without warning.
- (6) Deliveries of metal in large quantities are made to customers on unreasonably delayed orders shortly after the purchase of foreign metal by customers.
- (7) Charging higher prices for pig or semimanufactured aluminum to independent fabricators than to subsidiary companies.

(8) Discouraging potential competition in certain lines of the industry by refusing to sell pig or semimanufactured aluminum to certain companies.

(9) Furnishing metal known to be defective and of poor grade.

In brief, violation of the Sherman Antitrust Act.

Many other charges could be added to the above list of the Federal Trade Commission, but the demands of space prevent a detailed recounting of all the complaints of the domestic consumer. The Aluminum Co., for example, limits the supply to independent fabricators and founders, claiming its inability to satisfy the demand and the necessity for parceling out supplies so that they will go around. Then they say, on the other hand, that the consumptive requirements of the country are much under their productive capacity. The domestic consumer complains, too, that the Aluminum Co. has deliberately prevented competition by purchasing heavy interests in or entirely absorbing all of its larger competitors, and especially the larger consumers of its own products. Without going into this aspect of the situation, it is sufficient to say that the consumer is harassed beyond all reasonable bounds by the domestic situation in aluminum, and is hindered, if not actually prevented, from expanding his operations. Many fabricators and founders have been driven out of the business.

The total results to date from the commission's findings have been nil. It may be said in passing that the news brought forth by the commission as a result of its investigations was no news at all to the domestic consumer, who has been well aware of the conditions for many years. The commission has ample powers to proceed legally against the Aluminum Co., but it has not done so. The point at issue in the aluminum controversy is not whether the Aluminum Co. is a monopoly; that is definitely settled. It is a matter of the utmost indifference to the American aluminum consumer as to whether the Aluminum Co. is a monopoly or not. The point at issue so far as the courts are concerned is whether or not the Aluminum Co. has been conducting its business in such a manner as to be fair to subsidiaries and independent consumers alike. The answer is, irrespective of how the matter is settled by legislators and the courts, no. The aluminum monopoly in the United States has been so long ignored solely because of reluctance on the part of the legislators to disturb the gentlemen who own the company, and because of timidity of consumers in insisting upon their rights. The present attack on the Aluminum Co., led by Senator WALSH, of Montana, and Representative OLDFIELD, of Arkansas, is purely for partisan purposes to discredit the Coolidge administration. All the ingredients of good Democratic ammunition are at hand in the aluminum situation, viz: (1) The metal is protected by a heavy and unnecessary tariff; (2) the industry is a perfect example of a monopoly, controlled by the Aluminum Co. of America; and (3) the company is controlled by the Republican Secretary of the Treasury, A. W. Mellon. That the present inquiry now being conducted in Congress will have any noticeable effects the writer proposes to doubt, and the aluminum consumer in the United States has watched the course of events too long to have any faith whatsoever in governmental inquiry.

POSSIBILITY OF COMPETITION

In 1925 the world's aluminum industry was featured by plans and rumors of plans for the starting of a number of new aluminum producing plants by new interests in various countries, including Canada, Czechoslovakia, Germany, Hungary, Italy, Norway, and Russia. When reports of new schemes for aluminum reduction by independent companies in the United States are announced, the average aluminum consumer is profoundly skeptical. Very many of such schemes have been projected, and they all, with the exception of those of the Aluminum Co. of America, have come to naught. The only scheme which ever amounted to anything on the American Continent was that of the Southern Aluminum Co. in North America, backed by French interests, some 10 years ago. This was regarded by the consumer as the salvation of the industry, since competition was thought to be at hand. This plant was quickly gobbled up by the Aluminum Co. of America. Various and sundry other plans of less importance have engaged the attention of the domestic consumer from time to time. The Aluminum Co. of America alleges that for over 15 years no obstacle has existed to prevent anyone from entering the aluminum-producing field. It is such statements as this by the Aluminum Co., as well as its insistence that the tariff has no effect on prices, that explain in part the enormous capacity of the Aluminum Co. for arousing the rage of the domestic consumer.

The obstacles to entering the American aluminum producing industry are, briefly stated, (1) that the Aluminum Co. of America will seek to restrain and intimidate potential competition; (2) that large financial resources are required, not only for plant and equipment, but to carry on trade war and meet price cuts; (3) that practically all of the available bauxite resources suitable for aluminum production are controlled by the Aluminum Co.; (4) that there are relatively few technical men who know anything about aluminum reduction, and virtually all of these are in the employ of the Aluminum Co.; moreover, they are restrained by contracts not to divulge any technical information acquired while they were in the employ of the company. These obstacles seem real enough to the average consumer of aluminum

who contemplates entering the field. The possibility of entering the field is well shown by the experience of Henry Ford in his attempt to secure the power rights at Muscle Shoals. It will be recalled that his purported object in securing the site was to make fertilizer, but actually what he wanted to do was to produce aluminum. His offer was summarily frowned upon by the legislators, and finally withdrawn. Another instance of the possibility of entering the aluminum reduction field on the American Continent is shown very strikingly by the recent experience of Mr. George D. Haskell, president of the Baush Machine Tool Co., Springfield, Mass. Mr. Haskell's company is prominent in the manufacture of duralumin, an important consumer of aluminum and well financed. Mr. Haskell had a tentative deal on with the late James B. Duke, in which the two interests were to join in the production of aluminum at the Duke hydroelectric power site on the Saguenay River in Canada. The developments in Canada in the past six months are fresh history, and everyone knows that Mr. Haskell is not in on the Duke-Aluminum Co. deal at Chute-a-Caron. Mr. Haskell has now brought suit for \$15,000,000 damages, charging that the directors of the Aluminum Co. conspired with the Duke interests to prevent him from producing aluminum. This situation clearly shows what happens to companies which attempt to enter the reduction field on the American Continent.

The question of "making aluminum from clay" need not be discussed in the present article. In brief, the possibility is exceedingly remote so far as independent and new interests are concerned.

The article indicates the views of the engineering profession and the trade with reference to the practices which we are seeking to reach by this means.

Mr. REED of Pennsylvania. Does the Senator think one article couched in such terms indicates the views of the entire engineering profession?

Mr. WALSH. No; one swallow does not make a summer. I offer the article in connection with other matter to which I have referred as indicating at least the general view about the situation.

Mr. REED of Pennsylvania. The Senator will admit that it is a very small swallow at best.

Mr. WALSH. It will be noted that the writer pays his respects to the Republican legislators in the United States Senate, but he is impartial in the distribution of his comments concerning us, for a little later on he indicates that the proceedings in which we are now engaged are instituted and are being carried on by certain Democratic Members merely for partisan political purposes. Let us admit for the present that that is the sole purpose with which I and those who are associated with me in this matter are actuated, that we have no consideration of the public welfare in mind at all; what difference does it make? What difference should it make to the trade or the engineering profession by what motives we are actuated when we expose the facts and endeavor diligently and resolutely to bring relief through the only channels through which relief can possibly come?

Reference was made here to the sources from which our abundant supply of bauxite comes, the purpose evidently being to convey the impression that it is quite within the realm of possibility or even probability that other enterprising American citizens could go into the production of aluminum in this country and get their supply of bauxite from abroad. By the act of 1922 the duty on imports of aluminum ingots was increased from 2 to 5 cents per pound and on coils, plates, sheets, bars, rods, circles, disks, blanks, strips, rectangles, and squares from $3\frac{1}{2}$ to 9 cents per pound. In the year 1922 we imported of aluminum metal—crude, scrap, and alloy—39,951,690 pounds. In 1924 we imported 10,000,000 less, or 29,394,155 pounds. I read the figures from the reports on foreign commerce and navigation of the United States issued by the Census Bureau.

Going back to the imports of 1922, we find that of the 39,000,000 pounds imported, 7,000,000 pounds came from France, 6,884,925 pounds came from the Netherlands, 7,115,767 pounds came from Switzerland, 9,810,326 pounds came from England, and 7,529,202 pounds from the Provinces of Canada. But when we come to 1924, we find that of the 29,394,155 pounds imported, 10,000,000 less than were imported in 1922, 16,868,983 pounds came from Norway, the greater part of it produced by the Norse Aluminum Co., of the stock of which the Aluminum Co. of America had acquired 50 per cent. There also came from Canada 5,949,162 pounds, the Aluminum Co. of America controlling the greater portion of the Canadian supply meanwhile; so that of the 29,000,000 pounds, 22,000,000 came from sources controlled by the Aluminum Co. of America. I think that is an answer to the question asked me by the Senator.

Mr. REED of Pennsylvania. Does the Senator from Montana think that a 50 per cent interest is equivalent to control?

Mr. WALSH. I think that a 25 per cent interest is a controlling interest, ordinarily, in any corporation. So, Mr. Presi-

dent, 33 per cent is regarded by all of the courts of this country as a controlling interest, so as to make effective against a corporation that does so control a large institution the operation of the Federal antitrust act.

Mr. REED of Pennsylvania. Can the Senator refer to a case in which that has been held?

Mr. WALSH. It was so held in the case against the Sugar Trust. The facts were revealed in the inquiry concerning the connection of Mr. Warren with that matter. The company was compelled by the Department of Justice to reduce their holdings from 42 per cent to 33 per cent; then they were allowed liberty of possession and were enjoined from holding more than that amount.

Mr. REED of Pennsylvania. What court held that 33 per cent controlled the remaining 67 per cent?

Mr. WALSH. My recollection is that it was the Southern District Court of New York.

Mr. REED of Pennsylvania. But the Supreme Court has never said anything of that kind?

Mr. WALSH. Oh, no, the Supreme Court has not said so; but I undertake to say that anyone who is familiar with corporate management in this country—and no man on this floor is more so than is the Senator from Pennsylvania—knows that from 25 to 33 per cent in any great corporation gives the persons controlling that percentage control of the corporation.

Mr. REED of Pennsylvania. I can cite a very dramatic situation that would indicate that that was not so.

Mr. WALSH. So can I.

Mr. REED of Pennsylvania. The Senator from Montana will remember the Northern Pacific contest, where 49 per cent was found not to be controlling.

Mr. WALSH. Quite so, Mr. President. Whenever minority stockholders get into such a state of mind that they will not "come through" and a fight ensues, of course, then, 51 per cent is necessary to control; but the Senator from Pennsylvania knows that what I have stated is true as to all the great corporations of this country; and it was so revealed in the investigation conducted by former Secretary Hughes in the insurance investigation, where it was easily disclosed that the directors of a corporation having control of from 25 to 33½ per cent, under all ordinary circumstances, will control that corporation. Of course, if the other parties can go out and get the remainder of the stock and they fight, then 33½ per cent can not control 66½ per cent, as the Senator from Pennsylvania has stated.

Mr. REED of Pennsylvania. I submit that 1 per cent can control if the other 99 per cent will not assert their rights.

Mr. WALSH. Exactly; but when from 25 to 33 per cent secure control of the directorate they handle the corporation, as the Senator fairly well knows, I venture to say.

Mr. CUMMINS. Mr. President—

Mr. WILLIS. Mr. President, several Senators have advised me that they desire to be present when the Senator from Iowa makes his address. I therefore make the point of no quorum, if the Senator from Iowa will yield to me for that purpose.

The VICE PRESIDENT. The absence of a quorum having been suggested, the Secretary will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Bayard	Ferris	McKellar	Sackett
Bingham	Fess	McKinley	Sheppard
Blease	Fletcher	McLean	Shipstead
Bratton	Frazier	McNary	Simmons
Brookhart	Glass	Mayfield	Smith
Broussard	Goff	Means	Smoot
Bruce	Hale	Metcalf	Stanfield
Butler	Harrell	Moses	Swanson
Cameron	Harris	Norbeck	Trammell
Capper	Harrison	Nye	Tyson
Copeland	Heflin	Oddie	Walsh
Couzens	Howell	Overman	Warren
Cummins	Jones, Wash.	Pepper	Weller
Dale	Kendrick	Philpotts	Wheeler
Edge	Keyes	Pittman	Willis
Edwards	King	Reed, Pa.	
Ernst	La Follette	Robinson, Ark.	

Mr. NORBECK. I was requested to announce that the junior Senator from South Dakota [Mr. McMASTER] has been called home on account of the death of a relative and will be absent for several days.

Mr. JONES of Washington. I desire to announce that the Senator from Kansas [Mr. CURTIS], the Senator from Minnesota [Mr. SCHALL], and the Senator from Nebraska [Mr. NORRIS] are absent on account of illness.

Mr. McKINLEY. I wish to announce that my colleague, the junior Senator from Illinois [Mr. DENEEN] is detained from the Senate on account of illness.

The VICE PRESIDENT. Sixty-six Senators having answered to their names, a quorum is present.

Mr. CUMMINS. Mr. President, in the brief time in which I shall ask the attention of the Senate I do not intend to consider any controverted question of fact. The controversy that actually exists will be dealt with by Senators who will follow me in this discussion. I intend to present as briefly as possible a question which is purely legal. I once heard a President of the United States, in a public address, declare that the Constitution meant at any given time just what the people wanted it to mean, and I am afraid that there are some Senators, if I may substitute them for "the people," who assume the same attitude toward the Constitution of the United States, which we are accustomed to think is the great charter of our liberty and our Government.

I was engaged in the practice of my profession for 25 years. For the following quarter of a century I have been in the public service. I understand, therefore, I think, as well as most men can understand the opportunity for differences of opinion with respect to the constitutional authority of the Senate of the United States, especially when parties and partisan considerations are clamoring for a hearing.

I was not at all surprised to learn that the distinguished Senator from Montana [Mr. WALSH] did not agree with me with respect to the authority of the Senate to instruct the Judiciary Committee to conduct the investigation proposed in the majority report. He is an able lawyer, he is an experienced legislator, and his opinions are entitled to the most careful consideration. I confess, however, that I was deeply and painfully surprised to hear his allusions to the oil cases in the concluding part of his long and interesting address. I feel that upon reflection he will not repeat them, for there is nothing in the minority views which I have presented, and there will be nothing in the argument I am about to make, that could by any possibility provoke or justify those allusions.

It is apparent to anyone who knows anything about the subject that the two suits—one brought in Wyoming and the other in California—for cancellation and recovery do not involve in any of their aspects the authority of the Senate to take any action that it ever has taken or any action that it ever proposed to take. The indictments found in the District of Columbia do involve the authority of the Senate in certain respects, but there are only two questions that might have arisen there which under any circumstances could become material to the present discussion.

The first is, Has Congress the power to direct or command the President to appoint an executive officer? That point did not arise in the oil cases, whether civil or criminal, because the President complied with the command and appointed special counsel; and as the question of the constitutional power of Congress to command him to do it could be raised only upon his refusal to obey the command, the question becomes one of historic interest only.

The other question relates to the authority of the Senate to carry on an investigation in aid of legislation which has been proposed or which may be proposed to compel the attendance of witnesses, and to punish for contempt in proper cases. There is more legal literature covering the period from William Pitt and Lord Campbell to the present moment upon this and related subjects than can be found in any other field of the law. Interesting and important as this study may be, I have eliminated it from this discussion by admitting, for this occasion only, in the minority views that the Senate has the authority to conduct an inquiry in aid of legislation and can compel the attendance of witnesses and can punish for contempt, subject, of course, to the well-known rules of the law.

The minority views do question the right of Congress to command the President to appoint a special Attorney General. That, however, is not yet before the Senate. The motion made by the Senator from Montana, and which is now pending, is to adopt the majority report; and there is nothing in that report that even suggests that ultimately we will be asked to pass a joint resolution directing or commanding the President to appoint a new Attorney General. That will arise at some time, in view of the statement made by the Senator from Montana, but it is not now the question before the Senate. That question is, Shall the Senate direct the Judiciary Committee to make an inquiry or investigation in order to determine whether the Aluminum Co. of America has violated the decree of the District Court of the United States for the Western District of Pennsylvania entered in 1912?

The question of commanding the President to appoint a new Attorney General, or at least another Attorney General, is not in the oil cases and can not be brought into them, because the President did make the appointment required of him. It may be remarked at this point, to challenge your attention to it,

that in so far as I am informed it has not been claimed in the oil cases that the joint resolution directing the President to appoint special counsel to prosecute the cases constituted legislation that would support a Senate inquiry in aid of legislation. In fact, it could not be so claimed, because the investigation in the oil cases had taken place, and the Senate had already rendered its verdict and entered its judgment before the joint resolution was introduced in the Senate or in the House; and it was not proposed to make any investigation after that time.

Mr. KING. Mr. President, will the Senator suffer an interruption?

Mr. CUMMINS. Certainly.

Mr. KING. I ask for information, and as I desire to follow the Senator and not to draw deductions from what he said that may be at variance with the proper interpretation to be placed upon his observations.

I want to ask the Senator whether he would regard it as without the power of Congress, for instance, to abolish the Department of Justice and to authorize some bureau to prosecute violations of the law?

Mr. CUMMINS. No, Mr. President.

Mr. KING. Or whether it would be within the power of Congress to take away from the Department of Justice the power to prosecute infractions of the prohibition law and devolve that duty upon some independent officer?

Mr. CUMMINS. It is not a single question propounded by the Senator from Utah.

Mr. KING. No; there were two questions, but I did not wish to take the floor for more than a moment.

Mr. CUMMINS. Undoubtedly Congress can repeal the act which created the Department of Justice. It can repeal the authority of, I suppose, every court of the United States except the Supreme Court.

Mr. KING. Then Congress could pass a law directing the President to appoint somebody to prosecute the Aluminum Trust for violating the terms of the decree of the court?

Mr. CUMMINS. I do not think so. I think that is a radically different question. I have not any doubt that Congress has the power to destroy the United States. It can render it helpless and hopeless by either its legislation or its failure to legislate; but there is one thing that it can not do, and that is to command or direct the President of the United States in the execution of the duties which the Constitution has imposed upon him.

Mr. KING. Mr. President, will the Senator suffer another interruption?

Mr. CUMMINS. Certainly.

Mr. KING. Of course, when I used the expression "direct the President to select some other agency for the prosecution of infractions of the prohibition law," I meant by a statute which would receive his approval. I expressed it in the interrogative form, and I now express it in the declarative form. In my opinion, Congress would have the power to appoint some other agency—of course, the President would have to assent to the legislation—to prosecute infractions of the prohibition law, and to prosecute the violation of the terms of this decree in the Aluminum case.

Mr. CUMMINS. Mr. President, Congress has no power to appoint any executive officer. It can authorize the President to appoint additional executive officers. It can not direct him to appoint; and if the President fails to exercise the authority granted to him by Congress, if the failure is flagrant enough, the House may impeach him, and the Senate may remove him from his office; but I do not grant that the Congress of the United States can appoint any officer save the officers of its own organization. The Constitution reposed that responsibility and that duty in the Executive, and I am not willing to usurp the powers of the Executive in order to reach a combination, however wicked it may be.

I want that to be distinctly understood. I think we can do more harm to the institutions of the United States in a single hour in this body than the Aluminum Co. of America can inflict upon the people in a thousand years by destroying the form of our Government, which has now endured for more than 140 years and has established and preserved a civilization and has fostered a power which makes us the greatest Nation upon the face of the earth. I want my view in regard to that matter to be perfectly understood.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator from Iowa yield for a question?

Mr. CUMMINS. I yield with pleasure.

Mr. ROBINSON of Arkansas. As I understand him, the Senator from Iowa takes the position that it is within the province of the Congress to authorize the President to employ

counsel to direct proceedings in the courts, but that it is not within the power of the Congress to direct him to do so.

Mr. CUMMINS. That is the distinction I make.

Mr. ROBINSON of Arkansas. There is no question then about the right of the Congress to authorize the employment?

Mr. CUMMINS. None whatever.

Mr. ROBINSON of Arkansas. How does the Senator from Iowa reach the conclusion that the passage of such a resolution as that proposed by the Senator from Montana will destroy the Government of the United States?

Mr. CUMMINS. The Senator from Montana has not presented any resolution. This question is pending upon a motion to adopt a report, and I am now discussing the authority of the Senate to direct the Judiciary Committee to carry on the inquiry there prescribed. I have withdrawn from the point that I was discussing in response to the question proposed by the Senator from Utah [Mr. KING], and I will come to that presently. What I want to consider now is whether the Senate has any jurisdiction or any power to direct the Judiciary Committee to inquire into the commission of a crime, and I hope that the Senator from Arkansas will call my attention to the point he is now discussing when I reach it.

Mr. ROBINSON of Arkansas. Mr. President, the Senate Judiciary Committee has made an investigation into the question as to whether the decree referred to is being complied with?

Mr. CUMMINS. On the contrary, it has not. The very report which we are asked to approve states in its concluding paragraph that the Committee on the Judiciary has no power under the resolution under which it is acting to inquire into a violation of this decree; that its function is exhausted when it inquires into the diligence with which the Department of Justice has prosecuted its inquiry and the good faith that has attended that inquiry. I appeal to the Senator from Montana to know whether I am right about that.

Mr. ROBINSON of Arkansas. Just a moment. I think the Senator is correct in his description of the resolution under which the Senate Judiciary Committee has been proceeding. Does the Senator concede that it is within the province of the Senate to inquire into the question as to whether the Department of Justice has performed its functions in connection with decrees heretofore rendered?

Mr. CUMMINS. I do not.

Mr. ROBINSON of Arkansas. The Senator thinks, then, that the Senate has proceeded outside of its jurisdiction in the investigation and the inquiry it has already made?

Mr. CUMMINS. I do.

Mr. ROBINSON of Arkansas. What does the Senator believe to be the limit on the power of the Senate to make an inquiry?

Mr. CUMMINS. The limit upon the power of the Senate to make an inquiry or to conduct investigations is its power to enact legislation. I admit that it can make any investigation that is necessary; that is not admitted as a general principle, and I think there is great reason to question it, but I admit, for the purposes of this discussion, that the Senate may make an inquiry in aid of legislation.

Mr. ROBINSON of Arkansas. Just upon that point for a moment. The Senator admits the existence of power in the Senate to make an inquiry in aid of its legislative authority. The Senator would not admit that if he did not believe the power exists. Does the Senator think there is any reasonable doubt as to the right of either branch of the Congress to make an inquiry in aid of its legislative authority?

Mr. CUMMINS. That is a pretty hard question for me to answer.

Mr. ROBINSON of Arkansas. Either as to legislation that is pending or which may be proposed?

Mr. CUMMINS. The Supreme Court has repeatedly refused to determine that question, although it has had an opportunity to do so.

Mr. ROBINSON of Arkansas. Assuming that there are laws which are not being enforced, is it not readily within the range of the Senator's conception that the Senate might make an investigation of facts relating to the enforcement of the laws, with a view to legislating for their better enforcement?

Mr. CUMMINS. I do not disguise my position. I want to face the situation. I know what the Senator from Montana said, not only in the committee, but in the Senate a few days ago. I know that he proposes to introduce a joint resolution directing the President to appoint special counsel to prosecute the violations of this decree, provided, of course, the Senate by a further inquiry finds that the decree has been violated.

Mr. WALSH. Mr. President, I rise to state to the Senator that to my mind it would be sufficient if we should authorize

the President, not direct him. It will be quite sufficient if we authorize him, because the Supreme Court of the United States has repeatedly held that when the President is authorized by law to do a certain thing, it is his duty to do it.

Mr. CUMMINS. I think if we pass a joint resolution authorizing the President, we will have avoided one of the unconstitutional things that was done in the oil cases; but we will not have avoided all of them.

I desire to look a moment further into the motion which we have now pending, which does not concern any direction or authority to the President. I was saying that these are the reasons for the surprise I have experienced in the reference which the Senator from Montana made to the oil cases. I think I understood in a general way his purpose. It was rather to disparage the suggestion I had made with regard to the constitutional authority of the Senate. However, that is not very material. I repeat, the question before the Senate is a motion to adopt a report made by the Judiciary Committee. Substantially the whole of the four hours consumed by the Senator from Montana on Thursday last was devoted, first, to the delay, alleged to be unreasonable, which occurred in the Department of Justice in making an investigation as to the alleged violation of a decree of the District Court of the United States for the Western District of Pennsylvania. Second, to the manner in which it was carried on, and the incompetency or want of good faith of the men who conducted the inquiry. These matters are dealt with in the minority views presented by the Senator from Oklahoma [Mr. HARRELD], and I do not intend to discuss that phase of the subject.

Mark you—and you can take all the advantage of what I am about to say that keen and alert minds can find in it—from my standpoint, so far as the pending question is concerned, the delay, whether it be reasonable or unreasonable, or the good faith, so far as the Attorney General is concerned, has become entirely immaterial. The Department of Justice has finished the investigation, and has put its conclusions in final form. It has decided, after a painstaking and careful review, that a proceeding for contempt for violations of the decree to which I have referred is not warranted and can not be sustained.

I do not intend to ask whether that conclusion is sound or unsound. It makes no difference, so far as the questions I am presenting are concerned, whether the conclusion be sound or unsound. It differs from the conclusion reached by the Federal Trade Commission and presented in the majority report, and submitted to the Senate in the address of the Senator from Montana.

I desire to read the conclusion of the Department of Justice.

Mr. FLETCHER. Mr. President, may I interrupt the Senator?

Mr. CUMMINS. I yield.

Mr. FLETCHER. Was that conclusion announced since the report of the committee was filed in the Senate?

Mr. CUMMINS. Yes. The investigation had not been completed at the time the inquiry under the resolution was concluded, and the Attorney General went forward and completed it. I am speaking of the Department of Justice, not of the Attorney General as an individual.

These are the conclusions of the Department of Justice with regard to the institution of a proceeding for contempt of court—

Mr. KING. Mr. President—

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Utah?

Mr. CUMMINS. I yield.

Mr. KING. Are those conclusions based upon the so-called Dunn report?

Mr. CUMMINS. I fear the Senator from Utah has only a partial view of that matter. The Senator from Utah has listened to the Senator from Montana, who is very interesting and at times very persuasive; but if he noticed yesterday morning the Senator from Pennsylvania [Mr. REED] presented the accumulation of material upon which these conclusions are based. I am conjecturing only, but they were ordered printed as a Senate document, and I think they will make a volume of 1,500 or 2,000 pages. Although I have not examined that material, I know that it comprises a great deal more than the Dunn report.

Mr. KING. Being a member of the Judiciary Committee, I listened to the statement of the Attorney General, and I listened to the statement of Mr. Dunn, and to all that was elicited in the aluminum inquiry conducted by the Senate Judiciary Committee, and it was very clear from the statements there made by Mr. Donovan and by Mr. Dunn that they had substantially explored the whole range of activities of the

aluminum business as they conceived it necessary, and it was obvious that the Attorney General did not know a thing about it. I was wondering whether there had been any supplemental investigation since the testimony before the Judiciary Committee.

Mr. CUMMINS. I am speaking of the Department of Justice. I understand the Attorney General himself has not found it possible to do all the work of the Department of Justice in his own person. I think there are about 2,000 or more attachés of the Department of Justice. They are employed throughout the country in the performance of their duties, and I do not think the Attorney General himself can be held to be culpable, because he is unable to do all the work of that immense department of the Government.

Mr. WALSH. Mr. President, will the Senator yield.

Mr. CUMMINS. I yield.

Mr. WALSH. Of that vast volume of business referred to, can the Senator tell us how many of the cases relate to an alleged violation of law by a member of the Cabinet?

Mr. CUMMINS. I assume that sometime before we had finished this discussion Mr. Mellon would appear. Of course, the Senator from Montana does not ask that question in earnest or in good faith—

Mr. WALSH. Oh, yes, Mr. President; the Senator must not make any mistake of that character.

Mr. CUMMINS. Because he knew before he asked it that I know nothing whatsoever about the activities of the Attorney General. I do not know what he does and what he commits to others to do. I do not know whether there are decrees which are claimed to have been violated which involve a member of the Cabinet or not.

Mr. WALSH. The Senator from Iowa has had a very long and honorable career at the bar as well as in this body. It really would be helpful to many here, I am sure, if he would tell us what his view is as to whether the Attorney General of the United States, within five or six months after he took office—as a matter of fact, seven months after he took office—ought to have known of the pendency of this proceeding against the Aluminum Co. of America, practically against a fellow member of the Cabinet.

Mr. CUMMINS. I do not know whether I ought to answer that question or not. But I will say, knowing the inquisitive disposition of some of my Democratic colleagues in the Senate, knowing the suspicious turn of mind which some of them have, being so very ready to impute wrongdoing upon the slightest pretext, that if I had been Attorney General I would have employed every officer in the department, I would have turned them all loose and put them on this particular work, just to avoid what is now happening in the Senate, and I would have reached a conclusion before the Attorney General did.

Mr. WALSH. I am sure the Senator would, but I really asked the question in the most perfect good faith, hoping I might get an answer from the Senator with respect to the matter, utterly regardless of whatever disposition might be evidenced by political enemies. I am inquiring whether the Senator from Iowa cares to express an opinion to the Senate as to whether the Attorney General of the United States discharges his full duty when he does not know anything about a case of this character eight months after he comes into office.

Mr. CUMMINS. The Senator from Montana knows perfectly well that I have not examined the testimony which has been adduced upon that point. I am to be followed by the Senator from West Virginia [Mr. Goff], and I assume by the Senator from Oklahoma [Mr. Harreld], and I am sure the Senator from Pennsylvania [Mr. Reed], who have given their attention to the question of delay and good faith in the prosecution conducted by the Department of Justice. I have reserved another field for myself.

I proceed now to read the conclusions which have been reached by the Attorney General or by the Department of Justice with regard to the violation of the decree in question:

CONCLUSIONS

At page 112, volume 3, of the report of the Federal Trade Commission, dated October 6, 1924, the following language appears:

"A comparison of these provisions of the consent decree with the methods of competition employed by the Aluminum Co. of America, described above, especially with respect to delaying shipments of material, furnishing known defective material, discriminating in prices of crude or semifinished aluminum, and hindering competitors from enlarging their business operations appears to disclose repeated violations of the decree. Moreover, the original decree is obviously insufficient to restore competitive conditions in harmony with the antitrust laws, especially with respect to the monopolization of bauxite lands."

Hence the major charges of the commission are as follows:

1. Delaying shipments of material.
2. Furnishing known defective metal.
3. Discriminating in prices of crude or semifinished aluminum.
4. Hindering competitors from enlarging their business operations.

With respect to the above charges the following conclusions have been reached:

1. DELAYING SHIPMENTS OF MATERIAL

In order to successfully sustain this charge, it must be affirmatively shown that such delays were intentional on the part of the Aluminum Co. of America and were designed to injure the purchaser.

There is an entire lack of evidence to support such contention. The evidence on this point fully discloses that such delays as occurred were not intentional, but were caused by conditions beyond the control of the company.

Although it appears that manufacturers were put to considerable inconvenience and some extra expense by reason of these delays, there is no specific complaint alleging injury.

Hence, the inevitable conclusion arising from all the evidence must be that this charge is not well founded.

2. FURNISHING KNOWN DEFECTIVE METAL

With respect to this charge, it is true that many deliveries of defective metal were made during the period in question. Here, again, it is required the proof must be conclusive that such shipments were knowingly and designedly made for the purpose of hindering competitors in their business operations.

The evidence at hand clearly shows that the company made earnest endeavors to maintain the quality of its product, and when it was unable to do so it accepted return of defective metal and made proper adjustment.

The evidence further shows that the conditions existing in 1920 and 1921, which were responsible for delayed deliveries, were likewise responsible for the difficulties encountered with respect to defective material.

The conclusion with respect to this charge must be that it is not supported by the evidence.

3. DISCRIMINATING IN PRICES OF CRUDE OR SEMIFINISHED ALUMINUM

To support this charge it would be necessary to show that the company charged higher prices from a competitor "than are charged at the same time under like or similar conditions from any of the companies in which the defendant is financially interested."

The company's price policy as shown by the evidence was to quote the same price to all buyers where quantity, specification, credit, and other conditions were the same or similar.

Such a policy manifestly does not mean that prices will be identical without reference to these factors. There are firm grounds for the conclusion that instances of price variation were amply justified by conditions applicable to each.

The conclusion is that this charge is not warranted by the evidence.

4. HINDERING COMPETITORS FROM ENLARGING THEIR BUSINESS

The decree forbids the "requiring or compelling the making of agreements by competitors not to engage in any line of business nor to supply any special order in competition with defendant or with any company in which it is financially interested as a condition precedent to the procurement of aluminum metal."

The evidence fails to disclose that any such agreements were made or sought to be made, nor does it disclose that any lack of expansion of rolling-mill facilities is attributable to any unlawful acts on the part of the officials of the Aluminum Co. of America. All evidence on this point warrants the conclusion that this charge could not be sustained.

The conclusion of the commission that "the original decree is obviously insufficient to restore competitive conditions in harmony with the antitrust laws, especially with respect to the monopolization of bauxite lands," is wholly unwarranted.

The evidence is convincing that at the present time the dominant position in the aluminum industry occupied by the Aluminum Co. of America is in no wise related to the admitted fact that that company owns practically all of the bauxite lands in the United States.

The charge of violation of a decree is criminal in its nature and requires proof of guilt beyond a reasonable doubt before a conviction can be had.

The facts developed in this investigation show that it was a wise precaution on the part of the department to make a further investigation of the charges alleged by the commission to exist. It now appears that had the department filed a citation for contempt when the report was received it would have been wholly impossible to sustain the charges appearing therein.

With reference to the commission's charges as to delays in deliveries and defective metal shipments, above referred to, the evidence is clear that the principal cooking utensil subsidiary of the Aluminum Co. of America, and a company in which it has a substantial financial interest, suffered equally with other companies in this regard.

In respect to the charge of discriminations in prices the evidence discloses that many customers received as great or greater discounts as those enjoyed by a company in which the Aluminum Co. owned a substantial interest.

In addition to the specific complaints considered above the investigation embraced a number of lesser matters mentioned in the commission's report, which have been dealt with in this report.

It will be recalled that in view of the lack of evidence of domination of the Aluminum Goods Manufacturing Co. by the Aluminum Co. of America it was determined that an independent investigation of the former company be made as to its competitive methods. This investigation is now in progress.

It will be noted that there has been omitted from this report any reference to the matters which are at the moment the subject of hearings being held by the Federal Trade Commission with respect to its complaint of July 21, 1925, against the Aluminum Co. of America.

It ought to be stated in explanation of this part of the conclusions of the Department of Justice that some time in the summer or spring of 1925 the Federal Trade Commission issued a complaint charging the Aluminum Co. of America with unfair methods of competition and unfair practices. That proceeding before the Federal Trade Commission is now in progress. Testimony is now being taken upon the charges made by the Federal Trade Commission. I have observed, although it does not appear here, that there has been some controversy with regard to the appearance of witnesses and the testimony demanded of witnesses in the hearing going forward in Pittsburgh at the present time.

The major issues involved in those proceedings relate to the policy of the Aluminum Co. of America in connection with its manufacture and sale of aluminum sand castings and its policy with regard to the purchase of scrap aluminum.

Much information respecting these matters has been obtained in the course of the investigation by this department and definite conclusions arrived at. In view, however, of the pending proceedings, it is not deemed proper to express them here.

By reason of the lack of evidence upon which to base a citation in contempt against the Aluminum Co. of America or its officers and agents for violations of the decree of 1912, it is recommended that no action be taken by the department in this matter.

Mr. WALSH. Mr. President, will the Senator from Iowa yield to me?

The VICE PRESIDENT. Does the Senator from Iowa yield to the Senator from Montana?

Mr. CUMMINS. I will yield in just a moment. I am not prepared to say that the conclusions of the Department of Justice are the conclusions that some other investigating body or some other tribunal would reach upon the same testimony. It is impossible for me to make any assertion with regard to that. I am simply saying that the Department of Justice has concluded its work, has reached a conclusion, and, that in view of that conclusion, it is not within the authority of the Senate to conduct an inquiry into the violation or the alleged violation of that decree; that it is not in aid of legislation; that it is simply an inquiry into the existence or the commission of crime; and, whether it acts as a grand jury or whether it acts as a court, it is equally beyond the power of the Senate to make the inquiry. Now, I yield to the Senator from Montana.

Mr. WALSH. In the report from which the Senator has read we are told—

Much information respecting these matters has been obtained in the course of the investigation by this department and definite conclusions arrived at.

Does that refer to the proceedings now being conducted by the Federal Trade Commission?

Mr. CUMMINS. I am not sure whether it means that or whether it means an independent suit brought because of the relation between the Aluminum Co. and the other company mentioned.

Mr. WALSH. No; the language of the report from which the Senator read is quite definite. The report states:

It will be noted that there has been omitted from this report any reference to the matters which are at the moment the subject of hearings being held by the Federal Trade Commission with respect to its complaint of July 21, 1925, against the Aluminum Co. of America. The major issues involved in those proceedings relate to the policy of the Aluminum Co. of America in connection with its manufacture and sale of aluminum sand castings, and its policy with regard to the purchase of scrap aluminum.

Much information respecting these matters has been obtained in the course of the investigation by this department, and definite con-

clusions arrived at. In view, however, of the pending proceedings it is not deemed proper to express them here.

Much evidence was submitted in the course of my remarks indicating a violation of the decree in connection with the very matters that are now the subject of these hearings, but this report expressly says that those matters are excluded entirely from its scope; that the report deals only with actions of the Aluminum Co. of America outside the scope of the inquiry; but it is said that conclusions have been arrived at by the department with reference to those. I wish to inquire of the Senator from Iowa if he has any information as to what conclusions they have arrived at; whether, considering the circumstances, there has been a violation of the decree or otherwise?

Mr. CUMMINS. I have not. I assume, however, that the paper I have just read means that the Department of Justice has come to the conclusion that the evidence does not warrant the institution of a proceeding for violation of the decree of 1912. Whatever else may be true, that conclusion can not be questioned.

Mr. WALSH. And that embraces as well the sand-castings matter as these other matters?

Mr. CUMMINS. I am not familiar enough with the decree. I have not studied it sufficiently to know whether that would be a violation of the decree or not.

Mr. WALSH. That is not material here. The conclusion is, as I understand the matter, that there is no violation whatever of the decree, whether it is in connection with the matters the Senator has referred to in the report of the Federal Trade Commission or embraced within the scope of its present inquiry.

Mr. CUMMINS. I so understand.

Mr. WALSH. That is to say, they have gone into that and they have reached a conclusion about the matter that they do not state, but that, nevertheless, they find there is no ground on which to base proceedings.

Mr. CUMMINS. I believe that is the correct interpretation of the conclusions of the Department of Justice. We are, then, to inquire what we can do.

Mr. WALSH. If the Senator will pardon me just a question. If that is the proper interpretation of this statement, then why does the Department of Justice omit to give their conclusions about the matter?

Mr. CUMMINS. I do not know.

Mr. WALSH. They say, "We have inquired into that, and we have reached conclusions about the matter which we will not express."

Mr. CUMMINS. Precisely.

Mr. WALSH. "But at the same time we find that there has been no violation in any particular."

Mr. CUMMINS. We will have to take it for granted that the Department of Justice has come to the conclusion that there has been no violation of the court decree, and the inquiry formerly conducted and which is now proposed to be continued is entirely with respect to the violation of the decree. It has no other scope. And the Department of Justice says—the Senator may not agree with that conclusion—but it says, "We find no evidence upon which we can proceed."

Mr. WALSH. Yes; but the Senator must not ignore the language that he has read to us.

Much information respecting these matters—

The Attorney General states—

has been obtained in the course of the investigation by this department and definite conclusions arrived at. In view, however, of the pending proceedings, it is not deemed proper to express them here.

Mr. CUMMINS. I find an opportunity to differ from the departments every day in the year. I do not know to what end the Senator from Montana is directing his question.

Mr. WALSH. I am trying to understand this report.

Mr. CUMMINS. They have said that they do not find any evidence that would warrant beginning proceedings of contempt for the violation of the decree. They may be right or they may be wrong.

Mr. WALSH. That is not the point. I want to understand what they say. They do say they find no evidence warranting the institution of proceedings, but at the same time they say one phase of the subject they have inquired into, though they express no opinion at all about that.

Mr. CUMMINS. Precisely.

Mr. WALSH. What does that mean?

Mr. CUMMINS. The Federal Trade Commission is conducting an independent investigation, under section 5 of the Federal Trade Commission act, of charges that the Aluminum Co. is

using unfair methods of competition and employing unfair practices against the persons with whom it deals. The Department of Justice says, "We find no evidence to sustain the allegations of a violation of the court decree, but we do find testimony that bears upon the investigation now being conducted by the Federal Trade Commission." Its conclusions upon that testimony are not relevant; they are not material to the present inquiry.

Mr. WALSH. They would be relevant if they indicated a violation of the decree, would they not?

Mr. CUMMINS. The Department of Justice says they find no evidence of a violation of the decree.

Mr. WALSH. But they say they do not express any conclusion about that phase of it, whether it does or does not violate the decree.

Mr. CUMMINS. I can not agree with the Senator from Montana. The Department of Justice says there are no violations of this decree.

Mr. WALSH. They also say, however, with respect to one field of the inquiry, that they express no conclusion.

Mr. CUMMINS. The Senator from Montana can, of course, take whatever view of the language used by the Department of Justice he chooses to take; but he can not escape from the final assertion of the Department of Justice that it has found nothing upon which to predicate proceedings for contempt.

Mr. FLETCHER. Mr. President—

Mr. CUMMINS. I yield to the Senator from Florida.

Mr. FLETCHER. Reference is made in this report to some other proceedings. Is that reference to the proceedings by the Federal Trade Commission?

Mr. CUMMINS. I so understand.

Mr. FLETCHER. Or is it to some other court proceedings?

Mr. CUMMINS. It has reference to proceedings before the Federal Trade Commission, as I understand.

Mr. REED of Pennsylvania. Mr. President, will the Senator from Iowa yield to me to call attention to what they say in this report?

Mr. CUMMINS. Certainly.

Mr. REED of Pennsylvania. They say:

Investigation has been made also of the so-called "scrap, sand-castings" matter. A proceeding involving these questions is now pending before the Federal Trade Commission. Such questions were not included in the report submitted by the Federal Trade Commission under date of October 17, 1924. In view of the pending proceeding before the Federal Trade Commission, it was deemed inadvisable to include the findings of the investigation of this department in Mr. Benham's report. It will be made the subject of a separate report.

Showing, evidently, that there has been an examination and investigation of that, although the Federal Trade Commission had not previously done it. The conclusion, after saying that, is—

The result of the investigation of the department, therefore, makes it evident that no proceedings in contempt can be successfully maintained.

Mr. CUMMINS. Mr. President, I now recall myself and the Senate to the question which I was discussing when I laid before the Senate the conclusions of the Department of Justice. I repeat, the question before the Senate now is, What may we lawfully do in the premises? The proposal of the Senator from Montana is that the Committee on the Judiciary shall enter into an inquiry for the purpose of ascertaining whether the conclusions of the Department of Justice are sound or unsound; and if, in the judgment of the committee, and afterwards of the Senate, and after that, of the House of Representatives, it is found that they are unsound, then, that the President be directed to remove the Attorney General who is responsible for the acts of the Department of Justice and to appoint another legal officer in his stead.

The Senator from Montana would not admit, I assume, the correctness of my phraseology, but I submit to the Senate that I have accurately stated the proposal; for, when this subject is withdrawn from the jurisdiction or management of the Attorney General, he has been removed from his office to that extent.

The Aluminum Co. of America may be the wickedest corporation in the United States; it may be guilty of all the crimes laid at its door in the perfervid oratory of the Senator from Montana; but, as I remarked a short while ago, it can not in all its corporate life do our country as much harm as we can inflict upon it by the adoption of the report of the Senator from Montana, for everybody must concede that we are breaking down little by little the security we have so long enjoyed under the system which prescribes three

coordinate, independent branches of government, namely, the legislative, the executive, and the judicial.

The motion before us proposes an inquiry into the commission of a crime; and if it proceeds, as I have before remarked, it must proceed either as a court or as a grand jury; but, whether it proceeds as one or the other, it is exercising a judicial function, a function which the Constitution does not authorize it to perform, either expressly or by any possible implication.

I venture to say that in the entire history of the Senate it was never before proposed, unaccompanied by any suggestion of legislation, that the Senate should conduct an investigation to ascertain whether a specified crime had been committed either by an individual or by a corporation. The Senate has certain judicial powers expressly or impliedly given by the Constitution. It can try impeachments brought by the House of Representatives. It is the judge of the election and the qualifications of its own Members. It can try and punish one of its own Members for disorderly conduct, which may include a violation of its rules of procedure—rules which it has the power to make and enforce. But you will look in vain for even the semblance of any power to inquire into the commission of a crime by any person, artificial or natural, except in the cases I have mentioned; and, of course, the crime that is alleged to have been committed by the Aluminum Co. of America in the violation of a decree entered against it does not fall within any of the judicial powers conferred either upon the Senate or upon the Congress of the United States.

I shall not undertake to review the decisions of the court, of course, upon the point I am now discussing. The Supreme Court of the United States has never decided specifically just what the jurisdiction of Congress is in this respect. The question could not arise save in an investigation in which a witness had refused to appear, refused to answer, or refused to produce books, documents, or other papers; but it has discussed in several cases the general subject, and I simply take the liberty of mentioning some of the cases that might be consulted in order to shed light upon this very important question:

Kilbourn v. Thompson, a noted case in One hundred and third United States Reports, page 168.

In re Chapman (166 U. S. p. 661).

In re Pacific Railway Commission (32 Fed. Rep. p. 241).

Interstate Commerce Commission v. Brimson (154 U. S. 447).
Harriman v. Interstate Commerce Commission (211 U. S. 407).

Federal Trade Commission v. American Tobacco Co. (264 U. S. 296).

All these cases are upon the assumption that the inquiry is conducted in aid of legislation. The proposed inquiry in this instance is not in aid of legislation. In the *Kilbourn* case, to which I have referred and which I can not pause to read, the court explicitly repudiated an inquiry that was judicial in its character.

I want for a moment—and then I shall submit the matter so far as I am concerned—to run out what will happen if this principle or this custom is established and is pursued by the Senate.

It is the judgment of the minority of the committee that there is no constitutional authority for the resolution recommended in the majority report, and that if the course indicated in the proposed resolution becomes the settled practice of the Senate the overthrow of our form of government is the certain result. The struggle which must ensue will end either in the complete subordination of the executive or judicial branches of the Government to the legislative branch or in subjecting the legislative power to the executive power. Stripping the proposal to enter upon this inquiry of everything save its bare essentials, it means just this—no more and no less: The Senate, because it doubts the conclusion reached by the Department of Justice, is to try the Aluminum Co. for the alleged violations of the decree. If it finds the defendant guilty, it will then set about discovering a lawyer who holds the Senate opinion and direct the President to employ him.

The resolution will then go to the House of Representatives, and that body must try the case again; and if it concurs with the Senate, it will pass the resolution. Then the lawyer is employed, and he initiates the proceedings for contempt. If the court agrees with the Senate and House, the fine or imprisonment will be imposed. If, however, it should happen that the court exonerates the defendant, then, in order to be logical and pursue the matter to the end, the Senate and the House would pass another resolution directing the President to appoint another judge or other judges to review the action of the district court. Then would follow a hunt for lawyers who,

it may be assumed, if made judges, would agree with the Senate and House of Representatives; for it may be taken for granted that the Senate would not confirm any nomination that would not lead to the result suggested. But this is not all.

If we persist in the practice of reviewing the conclusions of the Department of Justice with respect to criminal prosecutions, or even civil suits, the Senate will be confronted at every session with demands for inquiries into alleged crimes against the United States which the Department of Justice either has prosecuted against the opinion of the Senate or has not prosecuted against the opinion of the Senate, and the effort will be to direct the President in all these cases. There is no limit to it. I do not say that the Senator from Utah [Mr. KING] would advise that course; I do not say that the Senator from Montana [Mr. WALSH] is yet ready to overturn these fundamental principles of our Government; but those who come after you will pursue that course if it is found in the present instance that the method you are attempting is a lawful, constitutional method.

This new conception of the powers and duties of the Senate may extend to the judicial department of the Government, and may end in a substantial recall of judicial decisions by the vote of both Houses, accompanied, of course, by an effective cooperation of the Senate in the exercise of its functions to advise and consent to the appointment of judicial officers. When a decision is rendered by a district court or by the circuit court of appeals which does not meet the approval of the Senate, if the new policy is correct, why should not the Judiciary Committee be directed to inquire into the soundness of the decision and, if upon its report approved by the Senate and the House, what is to hinder a joint resolution directing the President to appoint a new judicial tribunal to review the decision, assuming, of course, that the Senate would so use its power of confirmation as to accomplish that end?

From the standpoint of the minority members of the Judiciary Committee who have given their approval to these minority views, the whole theory is wrong and utterly subversive of the Constitution and of good government. It is to be understood that these suggestions do not depend for their force upon diligence upon the part of the Department of Justice, nor upon the soundness or unsoundness of the conclusions of that department with respect to the violation of the decree to which reference has been made. We deny the right or power of the Senate to try this case. We deny the jurisdiction of the Senate or any committee of the Senate to summon and hear witnesses upon the issue of a violation of this decree.

The Senate has distinct functions, which I will not again enumerate. They are carefully laid down in the Constitution. They can not very well be misunderstood or misapprehended; and this power to try a criminal for an alleged offense is not among the powers given to the Senate. In fact, we can not exercise any judicial powers unless they are explicitly given to us in the Constitution.

We are brought, then, to this final question; and now I come really to answer the inquiry of the Senator from Arkansas [Mr. ROBINSON]: Is the proposed inquiry into the alleged violation of this decree, entered in 1912, in aid of proposed constitutional legislation? In our judgment, it is not. While we can only conjecture what may be attempted after an expression of opinion upon the part of the Senate that the decree has been violated, the only possible act even remotely approaching legislation is the movement for the appointment of a legal officer to be substituted for the Department of Justice. This is not legislation as contemplated in the Constitution. Congress can repeal the act creating the Department of Justice and all the acts defining its duties and imposing its responsibilities. It can abolish our judicial system with one exception, viz, the Supreme Court. It can render the Government of the United States helpless and hopeless; but there are two things it can not do. It can not administer justice nor can it execute the laws. The Constitution commits the former function to the courts and the latter to the President through such agencies as Congress may establish. In our judgment, the Congress can not command or direct the President in the fulfillment of his oath faithfully to execute the laws. It can not correct, by legislation, the delinquency of the President or any other executive officer appointed to execute the laws. It may authorize the President to appoint an additional officer, whether judicial, executive, or administrative, but it can not command him to do so. If he fails to exercise the authority given him and the offense is flagrant enough to fall within the terms of the Constitution, the House may impeach him and the Senate may remove him from office. Likewise, the Attorney General or the Assistant to the Attorney General, who, in the majority report, are accused of lack of diligence or want of good faith, may be impeached and upon conviction removed

from office. This was the plan of our forefathers to preserve the purity of the courts and the diligence and fidelity of our high executive officers, and it ought to be maintained in all its integrity.

These are the reasons which I submit to the Senate for my opposition to the report of the Judiciary Committee, and I sincerely hope that the motion which has been proposed by the Senator from Montana will not receive the concurrence of a majority of the Senate.

Mr. REED of Pennsylvania. Mr. President, I give notice that at the conclusion of the routine morning business tomorrow I shall address the Senate on the pending motion of the Senator from Montana.

Mr. WALSH. Mr. President, the notice given by the Senator from Pennsylvania I suppose foreshadows the purpose of the Senate now to adjourn, at least the purpose of the majority to suggest that course, and I presume votes can be commanded to adjourn at this time. The matter under consideration was made a special order for Thursday last, and I occupied the greater portion of the day, and perhaps more than the occasion demanded. However, a request came from the other side to postpone further consideration of the matter until Monday, and I felt it only reasonable that those who took a contrary view of the question on the facts which I presented to the Senate at that time should have an opportunity to inquire into them. I thought that was a reasonable request, and I assented to it.

Yesterday was a holiday; but we have not been accustomed to refrain from the regular work of the Senate on Washington's Birthday. A further request came, however, and I learned that the Senator from West Virginia [Mr. GORR], who intends to speak upon this matter, was somewhat ill, and that the Senator from Pennsylvania [Mr. REED], who also desires to speak, had not been well, and I was disposed to yield to the request made yesterday, in consideration of the condition of those two Senators. But I did hope that we would go on with the matter to-day, particularly because there is important business to come before the Senate, some of it of an exceedingly urgent character. I do not know how insistent Senators who are interested in other matters to come before the Senate will be, but I had hoped we might go on this afternoon with the consideration of this subject until at least 5 o'clock.

Mr. CUMMINS. As far as I am concerned, that course is agreeable, but I understand the Senator from West Virginia does not desire to go on to-day.

Mr. REED of Pennsylvania. I would rather not speak at this time. It is pretty late now, and there is a very small attendance of Senators. I hope in the morning to deserve by my brevity a larger attendance of Senators than is able to be on the floor at this moment. I do not believe there is any intention to displace the pending motion as the unfinished business. I never heard the suggestion that that be done until a few moments ago, and certainly my request that the matter go over until to-morrow had no reference to such a course.

Mr. CUMMINS. I was about to ask that the motion be temporarily laid aside. It is the unfinished business, and at 2 o'clock to-morrow would come up automatically, no matter what might be before the Senate in the morning hour.

Mr. WALSH. That is true.

Mr. CUMMINS. I ask that the pending motion, which is the unfinished business, be temporarily laid aside.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and the unfinished business is temporarily laid aside.

EXECUTIVE SESSION

Mr. JONES of Washington. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened, and the Senate (at 4 o'clock and 5 minutes p. m.) adjourned until to-morrow, Wednesday, February 24, 1926, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate February 23, 1926

APPOINTMENT, BY TRANSFER, IN THE REGULAR ARMY

INFANTRY

Second Lieut. Welborn Barton Griffith, jr., Air Service, with rank from June 12, 1925.

PROMOTIONS IN THE NAVY

Lieut. Hubert E. Paddock to be a lieutenant commander in the Navy from the 27th day of November, 1925.

Lieut. Herbert V. Wiley to be a lieutenant commander in the Navy from the 17th day of December, 1925.

Lieut. (Junior Grade) Arthur W. Peterson to be a lieutenant in the Navy from the 22d day of April, 1925.

Lieut. (Junior Grade) George B. Cunningham to be a lieutenant in the Navy from the 8th day of August, 1925.

Lieut. (Junior Grade) Gyle D. Conrad to be a lieutenant in the Navy from the 16th day of September, 1925.

Lieut. (Junior Grade) James H. McKay to be a lieutenant in the Navy from the 1st day of October, 1925.

Lieut. (Junior Grade) Wade De Weese to be a lieutenant in the Navy from the 16th day of November, 1925.

Lieut. (Junior Grade) Richard P. Glass to be a lieutenant in the Navy from the 16th day of December, 1925.

Medical Inspector George F. Freeman to be a medical director in the Navy, with the rank of captain, from the 24th day of January, 1926.

Naval Constructor John W. Woodruff to be a naval constructor in the Navy, with the rank of captain, from the 23d day of January, 1926.

Naval Constructor Frederick G. Crisp to be a naval constructor in the Navy, with the rank of commander, from the 23d day of January, 1926.

Chief Gunner Louis M. Wegat to be a chief electrician in the Navy, to rank with but after ensign, from the 21st day of December, 1915.

Chief Gunner Arthur Boquett to be a chief radio electrician in the Navy, to rank with but after ensign, from the 13th day of January, 1919.

The following-named chief gunners to be chief radio electricians in the Navy, to rank with but after ensign, from the 16th day of January, 1920:

Charles F. Dame.

Edgar C. Wortman.

James J. Delany.

Pay Clerk Arthur Lyell, jr., to be a chief pay clerk in the Navy, to rank with but after ensign, from the 20th day of February, 1925.

MARINE CORPS

Capt. Norman C. Bates to be a major in the Marine Corps from the 18th day of July, 1925.

First Lieut. John N. Popham, jr., to be a captain in the Marine Corps from the 25th day of July, 1925.

First Lieut. Thomas A. Tighe to be a captain in the Marine Corps from the 25th day of July, 1925.

First Lieut. Richard O. Sanderson to be a captain in the Marine Corps from the 28th day of July, 1925.

First Lieut. Chaplain G. Hicks to be a captain in the Marine Corps from the 7th day of August, 1925.

First Lieut. Frank R. Armstead to be a captain in the Marine Corps from the 7th day of August, 1925.

First Lieut. Henry S. Hausmann to be a captain in the Marine Corps from the 7th day of September, 1925.

First Lieut. Edwin J. Mund to be a captain in the Marine Corps from the 15th day of September, 1925.

First Lieut. Lee H. Brown to be a captain in the Marine Corps from the 27th day of September, 1925.

First Lieut. Robert E. Mills to be a captain in the Marine Corps from the 1st day of October, 1925.

Second Lieut. Bayard L. Bell to be a first lieutenant in the Marine Corps from the 25th day of September, 1925.

Second Lieut. Vernon E. Megee to be a first lieutenant in the Marine Corps from the 27th day of September, 1925.

The following-named noncommissioned officers of the Marine Corps to be second lieutenants in the Marine Corps for a probationary period of two years from the 12th day of February, 1926:

Corp. Earl H. Phillips.

Corp. Paul A. Putnam.

Corp. Donald M. Hamilton.

Corp. James A. Donohue.

Staff Sergt. Matthew C. Horner.

Sergt. James M. Ranck, jr.

First Sergt. Laramie D. Snead.

Corp. Granville K. Frisbie.

Sergt. Lawrence Norman.

Corp. Presley M. Rixey, 3d.

POSTMASTERS

ALABAMA

Grover A. Bice to be postmaster at Thorsby, Ala., in place of G. A. Bice. Incumbent's commission expires February 24, 1926.

Jacob A. Johnson to be postmaster at Vernon, Ala., in place of J. A. Johnson. Incumbent's commission expires February 24, 1926.

ARKANSAS

Herbert D. Edwards to be postmaster at Benton, Ark., in place of H. D. Edwards. Incumbent's commission expired February 21, 1926.

Joe Mitchell to be postmaster at Danville, Ark., in place of Joe Mitchell. Incumbent's commission expired February 21, 1926.

John E. Reid to be postmaster at Foreman, Ark., in place of J. E. Reid. Incumbent's commission expired February 21, 1926.

Daniel C. Wines to be postmaster at Helena, Ark., in place of D. C. Wines. Incumbent's commission expired February 21, 1926.

John A. Davis to be postmaster at Hope, Ark., in place of J. A. Davis. Incumbent's commission expired February 21, 1926.

Helen Porter to be postmaster at Horatio, Ark., in place of Helen Porter. Incumbent's commission expired February 21, 1926.

Cary Johnson to be postmaster at Hot Springs National Park, Ark., in place of Cary Johnson. Incumbent's commission expired February 21, 1926.

Oscar W. McClintock to be postmaster at Monticello, Ark., in place of O. W. McClintock. Incumbent's commission expired February 21, 1926.

Charley V. B. Harley to be postmaster at Paris, Ark., in place of C. V. B. Harley. Incumbent's commission expired February 21, 1926.

Burton C. Willard to be postmaster at Plainview, Ark., in place of B. C. Willard. Incumbent's commission expired February 21, 1926.

William E. Edmiston to be postmaster at Portland, Ark., in place of W. E. Edmiston. Incumbent's commission expired February 21, 1926.

William H. Moreland to be postmaster at Tyronza, Ark., in place of W. H. Moreland. Incumbent's commission expired February 21, 1926.

CALIFORNIA

Harry R. Borden to be postmaster at Angels Camp, Calif., in place of H. R. Borden. Incumbent's commission expired February 22, 1926.

John Z. Shelton to be postmaster at Oroville, Calif., in place of J. Z. Shelton. Incumbent's commission expired February 22, 1926.

Mary L. Cogan to be postmaster at Santa Margarita, Calif., in place of M. L. Cogan. Incumbent's commission expired February 22, 1926.

William H. Hitchcock to be postmaster at Shafter, Calif., in place of W. H. Hitchcock. Incumbent's commission expired February 22, 1926.

COLORADO

Elizabeth M. Kroll to be postmaster at Castle Rock, Colo., in place of F. B. Rose, removed.

Samuel B. Wasson to be postmaster at Grand Valley, Colo., in place of S. B. Wasson. Incumbent's commission expires February 24, 1926.

Orpha T. Brunner to be postmaster at Johnstown, Colo., in place of O. T. Brunner. Incumbent's commission expires February 24, 1926.

Anna C. Hanson to be postmaster at Strasburg, Colo., in place of A. C. Hanson. Incumbent's commission expires February 24, 1926.

FLORIDA

Edward N. Winslow to be postmaster at Cocoa, Fla., in place of O. K. Key, resigned.

IDAHO

Charles A. Johnston to be postmaster at Cottonwood, Idaho, in place of C. A. Johnston. Incumbent's commission expired February 21, 1926.

Percy E. Ellis to be postmaster at Stites, Idaho, in place of P. E. Ellis. Incumbent's commission expires February 24, 1926.

ILLINOIS

Harry Pensinger to be postmaster at Cerro Gordo, Ill., in place of Harry Pensinger. Incumbent's commission expires February 24, 1926.

Charles O. Anderson to be postmaster at Creal Springs, Ill., in place of C. O. Anderson. Incumbent's commission expires February 24, 1926.

Charles L. Smith to be postmaster at Cutler, Ill., in place of C. L. Smith. Incumbent's commission expires February 24, 1926.

Edgar C. Seik to be postmaster at Grafton, Ill., in place of E. C. Seik. Incumbent's commission expires February 24, 1926.

John R. McIntire to be postmaster at Grand Chain, Ill., in place of J. R. McIntire. Incumbent's commission expires February 24, 1926.

William E. Erfert, jr., to be postmaster at Lansing, Ill., in place of W. E. Erfert, jr. Incumbent's commission expires February 24, 1926.

Delta C. Lowe to be postmaster at Mason City, Ill., in place of D. C. Lowe. Incumbent's commission expires February 24, 1926.

INDIANA

Guy F. Johnson to be postmaster at Ewing, Ind., in place of G. F. Johnson. Incumbent's commission expired February 21, 1926.

Fern Duguid to be postmaster at Ray, Ind. Office became presidential July 1, 1925.

Dean W. White to be postmaster at Vallonia, Ind., in place of D. W. White. Incumbent's commission expired February 21, 1926.

IOWA

Elda B. Sparks to be postmaster at Buffalo Center, Iowa, in place of G. D. Curtis. Incumbent's commission expired January 30, 1926.

Vellas L. Gilje to be postmaster at Elkader, Iowa, in place of V. L. Gilje. Incumbent's commission expired February 21, 1926.

Andrew C. Ries to be postmaster at Ringsted, Iowa, in place of A. C. Ries. Incumbent's commission expired August 4, 1925.

Boyd W. Smith to be postmaster at Waukon, Iowa, in place of B. W. Smith. Incumbent's commission expired February 21, 1926.

KANSAS

Elizabeth Snider to be postmaster at Rantoul, Kans., in place of Elizabeth Snider. Incumbent's commission expired December 21, 1925.

KENTUCKY

Quay C. Quigg to be postmaster at Livermore, Ky., in place of Q. C. Quigg. Incumbent's commission expired February 22, 1926.

John W. Tate to be postmaster at Monticello, Ky., in place of H. A. Tate, resigned.

MARYLAND

Charles G. Tedrick to be postmaster at Clear Spring, Md., in place of C. G. Tedrick. Incumbent's commission expired January 24, 1926.

MICHIGAN

Herbert T. Trumble to be postmaster at Elkton, Mich., in place of H. T. Trumble. Incumbent's commission expired February 21, 1926.

Hercules Rice to be postmaster at Muir, Mich., in place of Hercules Rice. Incumbent's commission expired February 21, 1926.

Russell S. Kendrick to be postmaster at New Haven, Mich., in place of R. S. Kendrick. Incumbent's commission expired February 21, 1926.

Claude B. Van Wert to be postmaster at North Adams, Mich., in place of C. B. Van Wert. Incumbent's commission expired February 21, 1926.

George H. Poskitt to be postmaster at Prescott, Mich., in place of G. H. Poskitt. Incumbent's commission expired February 21, 1926.

James E. Skidmore to be postmaster at Vestaburg, Mich., in place of J. E. Skidmore. Incumbent's commission expires February 24, 1926.

MINNESOTA

Annie E. Dobie to be postmaster at Newport, Minn., in place of L. E. Trevette. Incumbent's commission expired November 22, 1925.

MISSISSIPPI

Henry L. Rhodes to be postmaster at Ackerman, Miss., in place of H. L. Rhodes. Incumbent's commission expired February 21, 1926.

Dora McCurley to be postmaster at Stephenson, Miss., in place of Dora McCurley. Incumbent's commission expired February 17, 1926.

MISSOURI

Kinzie K. Gittings to be postmaster at Chilhowie, Mo., in place of K. K. Gittings. Incumbent's commission expired December 19, 1925.

Henry D. French to be postmaster at Jameson, Mo., in place of H. D. French. Incumbent's commission expired August 24, 1925.

Clarence B. Robinson to be postmaster at South West City, Mo., in place of C. B. Robinson. Incumbent's commission expired February 22, 1926.

MONTANA

Leanore K. C. Roderick to be postmaster at Outlook, Mont., in place of L. K. C. Roderick. Incumbent's commission expired January 17, 1926.

NEW JERSEY

Joseph H. McLaughlin to be postmaster at Bradley Beach, N. J., in place of J. H. McLaughlin. Incumbent's commission expired November 23, 1925.

NEW MEXICO

Oliver G. Cady to be postmaster at Alamogordo, N. Mex., in place of O. G. Cady. Incumbent's commission expired February 6, 1926.

Mary C. DuBois to be postmaster at Corona, N. Mex., in place of M. C. DuBois. Incumbent's commission expired January 17, 1926.

Lillie Sutton to be postmaster at Vaughn, N. Mex., in place of O. G. White, resigned.

NEW YORK

John Common to be postmaster at Andover, N. Y., in place of John Common. Incumbent's commission expired February 21, 1926.

Mary H. Dunn to be postmaster at Bellmore, N. Y., in place of M. H. Dunn. Incumbent's commission expired February 3, 1926.

Charles B. Hugg to be postmaster at Cazenovia, N. Y., in place of C. B. Hugg. Incumbent's commission expired February 21, 1926.

Horace B. Fromer to be postmaster at Hunter, N. Y., in place of H. B. Fromer. Incumbent's commission expires February 24, 1926.

Clarence Bryant to be postmaster at Le Roy, N. Y., in place of Clarence Bryant. Incumbent's commission expired January 17, 1926.

Wilfred D. Cheney to be postmaster at Newton Falls, N. Y., in place of W. D. Cheney. Incumbent's commission expires February 24, 1926.

Carolyn E. Perkins to be postmaster at South Otselic, N. Y., in place of C. E. Perkins. Incumbent's commission expired December 20, 1925.

Ahava Rathbun to be postmaster at Williamstown, N. Y., in place of Ahava Rathbun. Incumbent's commission expires February 24, 1926.

NORTH CAROLINA

Loyd V. Sorrell to be postmaster at Cary, N. C., in place of L. V. Sorrell. Incumbent's commission expired February 21, 1926.

Judson D. Albright to be postmaster at Charlotte, N. C., in place of J. D. Albright. Incumbent's commission expired February 22, 1926.

Charles R. Thomas to be postmaster at Milton, N. C., in place of C. R. Thomas. Incumbent's commission expired February 21, 1926.

Mary W. Yarborough to be postmaster at Louisburg, N. C., in place of E. F. Yarborough, deceased.

OKLAHOMA

John K. Miller to be postmaster at Apache, Okla., in place of J. K. Miller. Incumbent's commission expired February 22, 1926.

Alpha Rutherford to be postmaster at Bennington, Okla., in place of Alpha Rutherford. Incumbent's commission expired February 21, 1926.

Grace L. Taylor to be postmaster at Blair, Okla., in place of G. L. Taylor. Incumbent's commission expired February 21, 1926.

William N. Williams to be postmaster at Broken Arrow, Okla., in place of W. N. Williams. Incumbent's commission expired February 22, 1926.

Jasper A. Bartley to be postmaster at Choteau, Okla., in place of J. A. Bartley. Incumbent's commission expired December 22, 1925.

James W. Hinson to be postmaster at Fletcher, Okla., in place of J. W. Hinson. Incumbent's commission expired February 22, 1926.

Thomas E. Miller to be postmaster at Francis, Okla., in place of T. E. Miller. Incumbent's commission expired February 10, 1926.

John M. Tyler to be postmaster at Idabel, Okla., in place of J. M. Tyler. Incumbent's commission expired February 21, 1926.

Ulysses S. Curry to be postmaster at Newkirk, Okla., in place of U. S. Curry. Incumbent's commission expired February 21, 1926.

John D. Morrison to be postmaster at Red Oak, Okla., in place of J. D. Morrison. Incumbent's commission expired February 21, 1926.

Sanford I. Pennington to be postmaster at Ringling, Okla., in place of S. I. Pennington. Incumbent's commission expired February 21, 1926.

OREGON

Ellis L. Morse to be postmaster at Spray, Oreg., in place of Charles Royse, removed.

PENNSYLVANIA

George C. Hughes to be postmaster at East Stroudsburg, Pa., in place of G. C. Hughes. Incumbent's commission expires February 24, 1926.

Lewis H. Blanc to be postmaster at New Salem, Pa., in place of O. A. Rodefer, resigned.

Theodore E. Sweeney to be postmaster at Sewickley, Pa., in place of T. E. Sweeney. Incumbent's commission expires February 24, 1926.

Oscar Maul to be postmaster at Turbotville, Pa., in place of Oscar Maul. Incumbent's commission expired November 18, 1925.

SOUTH CAROLINA

Charles W. Skinner to be postmaster at Darlington, S. C., in place of G. F. Wilson, removed.

SOUTH DAKOTA

Robert C. Van Horn to be postmaster at Kennebec, S. Dak., in place of R. C. Van Horn. Incumbent's commission expires February 24, 1926.

TENNESSEE

Sanders S. Proffitt to be postmaster at Concord, Tenn., in place of S. S. Proffitt. Incumbent's commission expired February 22, 1926.

TEXAS

Clarence Walters to be postmaster at Alice, Tex., in place of A. M. Tower, removed.

Fred P. Ingerson to be postmaster at Barstow, Tex., in place of F. P. Ingerson. Incumbent's commission expired February 22, 1926.

Benno B. Volkening to be postmaster at Bellville, Tex., in place of B. B. Volkening. Incumbent's commission expired February 20, 1926.

Oria H. Sieber to be postmaster at Crosbyton, Tex., in place of O. A. Siebler. Incumbent's commission expired February 3, 1926.

Annie B. Causey to be postmaster at Doucette, Tex., in place of A. B. Causey. Incumbent's commission expired February 22, 1926.

Simon J. Enochs to be postmaster at Georgetown, Tex., in place of S. J. Enochs. Incumbent's commission expired January 25, 1926.

Charles L. Long to be postmaster at Graham, Tex., in place of C. L. Long. Incumbent's commission expired February 14, 1926.

Horace H. Watson to be postmaster at Orange, Tex., in place of H. H. Watson. Incumbent's commission expired February 22, 1926.

Warner W. McNaron to be postmaster at Rotan, Tex., in place of W. W. McNaron. Incumbent's commission expired February 22, 1926.

Layfette T. Perateaux to be postmaster at Spring, Tex., in place of L. T. Perateaux. Incumbent's commission expired February 14, 1926.

VERMONT

Robert C. Olds to be postmaster at Norwich, Vt., in place of R. C. Olds. Incumbent's commission expired February 3, 1926.

WASHINGTON

Christopher C. Van Leuven to be postmaster at Molson, Wash., in place of C. C. Van Leuven. Incumbent's commission expired February 22, 1926.

Michael J. Murphy to be postmaster at Oakville, Wash., in place of M. J. Murphy. Incumbent's commission expired February 22, 1926.

William Busch to be postmaster at Raymond, Wash., in place of William Busch. Incumbent's commission expired February 22, 1926.

Wilson Howe to be postmaster at Tenino, Wash., in place of Wilson Howe. Incumbent's commission expired February 22, 1926.

WEST VIRGINIA

Harry F. Lewis to be postmaster at Point Pleasant, W. Va., in place of W. H. H. Gardner. Incumbent's commission expired February 21, 1926.

Boyd McKeever to be postmaster at Wardensville, W. Va., in place of Boyd McKeever. Incumbent's commission expired February 21, 1926.

Oscar T. Maynard to be postmaster at Williamson, W. Va., in place of N. J. Keadle. Incumbent's commission expired February 9, 1926.

WISCONSIN

Edward W. Guth to be postmaster at Adell, Wis., in place of E. W. Guth. Incumbent's commission expired November 18, 1925.

Emil C. Kraemer to be postmaster at Fond du Lac, Wis., in place of E. C. Kraemer. Incumbent's commission expired December 15, 1925.

Amund J. Amundson to be postmaster at New Auburn, Wis., in place of A. J. Amundson. Incumbent's commission expired November 19, 1925.

WYOMING

Jesse B. Budd to be postmaster at Big Piney, Wyo. Office became presidential July 1, 1925.

Edna C. Jessen to be postmaster at Newcastle, Wyo., in place of Harry Fawcett, removed.

CONFIRMATIONS

Executive nominations confirmed by the Senate February 23, 1926

DIPLOMATIC AND CONSULAR SERVICE

ENVOYS EXTRAORDINARY AND MINISTERS PLENIPOTENTIARY

John Dyneley Prince to be envoy extraordinary and minister plenipotentiary of the United States of America to the Kingdom of the Serbs, Croats, and Slovenes.

H. Percival Dodge to be envoy extraordinary and minister plenipotentiary of the United States of America to Denmark.

TO BE CONSUL

Robert M. Scotten.

THIRD JUDGE, CIRCUIT COURT, FIRST CIRCUIT OF HAWAII

Edward Kingsley Massee to be third judge, circuit court, first circuit, Territory of Hawaii.

CIRCUIT JUDGE, THIRD CIRCUIT OF HAWAII

James Wesley Thompson to be circuit judge, third circuit, Territory of Hawaii.

COAST AND GEODETIC SURVEY

TO BE AIDS

Edward Robert McCarthy.	Henry James Healy.
Francis Bartholomew Quinn.	Leonard Carl Johnson.
Emil Herman Kirsch.	Ira Taylor Sanders.

UNITED STATES ATTORNEYS

John S. Murdock to be United States attorney, district of Rhode Island.

Randolph Bryant to be United States attorney, eastern district of Texas.

UNITED STATES MARSHAL

Louis H. Crawford to be United States marshal, northern district of Georgia.

POSTMASTERS

ALABAMA

James F. Brawner, Andalusia.
Eleanor F. Whitchee, Bridgeport.
Wiley M. Bean, Clanton.
Winston C. Shotts, Hackleburg.
Jewell Sorrell, Jemison.
Benjamin F. Beesley, McKenzie.
Stella K. Martin, Plantersville.
Alice Wilkinson, Prattville.
Helen M. Jones, Whistler.

COLORADO

Henry A. Danielson, Boone.
Henry N. Chapman, Branson.
Robert L. Wilkinson, Burlington.
Frank S. Lucas, Clifton.
Rachel Crawford, Cortez.
Edward P. Owen, Genoa.
Richard G. Dalton, La Junta.
Grace Conrad, Olney Springs.

CONNECTICUT

Charles E. Burnham, Hampton.
James E. Usher, Plainville.

DELAWARE

Howard Rash, Cheswold.
Edward H. Naylor, New Castle.
James E. Willey, Seaford.

ILLINOIS

Lillian M. Dilg, Morton Grove.

INDIANA

Charles E. Combs, Bloomfield.
Mazie F. Cline, Camden.
Maude E. Mitchell, Ellettsville.
Moody L. Katter, Huntingburg.
Ben H. Sink, Jasonville.
Charles S. Dudley, Lewisville.
William E. Kelsey, Monterey.
Ernest C. Purdue, Newburg.
Zeno I. Moore, Paoli.

KANSAS

Sidney H. Knapp, Concordia.
E. Ervin Townsden, Hugoton.
Elmer E. Haynes, Madison.
John W. Coleman, Sylvia.
Jacob K. Luder, Waldo.

LOUISIANA

Reynald J. Patin, Breaux Bridge.
Solomon C. Knight, Elizabeth.
Benjamin F. Cowley, Leesville.
Emmie G. Webb, Minden.
Elwyn J. Barrow, St. Francisville.

MICHIGAN

Bert W. Klackle, Bridgman.
Thomas H. McGee, Farmington.
E. Harold Ormes, Marenisco.
Alfred H. Stevens, Montrose.
Ellen M. Ray, New Era.
Charles T. Lockwood, Portland.
Edward A. Gast, St. Joseph.

MISSISSIPPI

Charles F. Harris, Bentonla.
Georgia A. McCuen, Brookville.
Clara L. Wright, Enterprise.
Richard K. Haxton, Greenville.
Edward A. Kernaghan, Hattiesburg.
Maude D. Montgomery, Hermanville.
Walter T. Heslep, Indianola.
Charles J. Hyde, Meridian.
Amos D. Dorman, Myrtle.
Ettoyle S. Countiss, Pittsboro.
Henry Boswell, Sanatorium.
Charles P. Chappell, Tupelo.
Sue W. Mott, Yazoo City.

MISSOURI

Luther P. Dove, Cabool.
Arthur F. Goetz, Canton.
Henry A. Seemel, De Soto.
Jackson G. Short, Galena.
Robert R. White, Greenville.
Lawrence R. Quick, Hallsville.
Peter S. Ravenstein, Hayti.
Joel W. Sever, Hurdland.
Frank L. Neitzert, Knobnoster.
Herman E. Christrup, Laddonia.
Edwin K. Lett, Marquand.
David L. Blanchfield, Martinsburg.
Henry W. Werges, New Haven.
Carl E. Morris, Pattonburg.
Grace E. Kirkbride, Ravenwood.
Enos D. French, Skidmore.
John H. Fisher, Sullivan.
Ben J. Drymon, Willow Springs.

NEBRASKA

Isaac A. Reneau, Broken Bow.
Milton L. Pittenger, Crab Orchard.
George W. Miller, Harvard.
Blanche Snyder, Oconto.
John D. Ringer, Omaha.
Gilbert E. Swanson, Oshkosh.
Frank N. Thomson, Winnebago.
Elsie B. Thompson, Wynot.

NEW YORK

Charles H. Whitson, Briarcliff Manor.
John T. Hoffman, Madalin.

NORTH CAROLINA

John R. Rollins, Bessemer City.
Wallace A. Reinhardt, Newton.
Abram L. Alexander, Plymouth.

NORTH DAKOTA

Olof O. Bjorke, Abercrombie.
Estelle A. Kingery, Forbes.
Alf J. Dunnum, Kensal.
Anna E. Reimers, Max.
Marvin Broton, Petersburg.
Joseph J. Simon, Thompson.

OHIO

Herman W. Davis, Bedford.
Myrtle M. McCreery, Brecksville.
Carl Ledman, Byesville.
Charles E. Schindler, Coldwater.
Allen G. Bogart, Columbus Grove.
Roy G. Sutherin, East Palestine.
Edwin E. Cook, Huron.
Earl R. Burford, Minerva.
Benjamin S. Dillehay, Waterford.

PENNSYLVANIA

Elmer D. Getz, Akron.
Eva E. Sechler, Cherry Tree.
Harry L. Koons, East Pittsburgh.
George H. Mull, Knox.
Jefferson B. Hershey, McKeesport.
Newton E. Palmer, Oxford.
George E. Kemp, Philadelphia.
Howard O. Boyer, Rural Valley.
Dayton W. Mills, Ulster.
Helen P. Howell, West Alexander.
Robert C. Simpson, Woodlawn.
Edward S. Brooks, York.

VERMONT

William M. Batchelder, Dorset.
Charles F. Thurber, Fairlee.
Emeroy G. Page, Hyde Park.
Ida H. Holton, Newbury.
Walter A. Amsden, Proctorsville.
Arthur G. Folsom, Tunbridge.
Gertrude E. Trempe, Wilder.

WYOMING

Jason A. Hobbs, Rawlins.

HOUSE OF REPRESENTATIVES

TUESDAY, February 23, 1926

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Father in heaven, before whom we bow in praise and adoration, and to whom we speak the language of our souls, accept our offering. Teach us the high art of self-control and in all things make us masters of our tendencies. Keep Thou the truth in our thoughts, namely, "He that ruleth his spirit is greater than he who taketh a city." In all situations help us to quit ourselves like men and thus prove ourselves to be worthy of our high calling and the dignity which Thou dost bestow upon us. Give our sympathies a wide sweep, and may they reach out toward all classes and conditions of men; thus shall we hasten the day when "men to men shall brothers be the world over." Amen.

The Journal of the proceedings of yesterday was read and approved.

ORDER OF BUSINESS

Mr. TILSON. Mr. Speaker, the Interstate and Foreign Commerce Committee expect to call up the so-called Railroad Labor Board bill to-day. Already leave has been obtained to consider it under certain restrictions to-day and to-morrow. I now ask unanimous consent that, in case the bill should not be completed when the House adjourns on Wednesday, it may be in order to call it up on Thursday and thereafter until finished, and consider it under the general rules of the House.

The SPEAKER. The gentleman from Connecticut asks unanimous consent that, in case the Railroad Labor Board bill reported by the Interstate and Foreign Commerce Committee